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RECORD, CASE N[illegible]

SUPREME COURT OF THE UNIT[illegible]

OCTOBER TERM,

TERM No., 18[illegible]

THE CORPORATION OF THE CATHOLIC [illegible]
NEQUALLY, IN WASHINGTON TERRI[illegible] AP[illegible]
LANT,

vs.

JOHN GIBSON, T. M. ANDERSON, R. T. [illegible]
THE UNITED STATES.

APPEAL FROM THE CIRCUIT COURT OF THE UNITED [illegible]
THE DISTRICT OF WASHINGTON.

PRINTED [illegible]

RECORD, CASE No. 14,819.

SUPREME COURT OF THE UNITED STATES.

OCTOBER TERM, 1891.

TERM No., 1345.

THE CORPORATION OF THE CATHOLIC BISHOP OF NESQUALLY, IN WASHINGTON TERRITORY, APPELLANT,

vs.

JOHN GIBBON, T. M. ANDERSON, R. T. YEATMAN, AND THE UNITED STATES.

APPEAL FROM THE CIRCUIT COURT OF THE UNITED STATES FOR THE DISTRICT OF WASHINGTON.

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1 In the District Court of the Second Judicial District of Washington Territory, Holding Terms at Vancouver for the Counties of Clarke and Skamania, in said Territory.

THE CORPORATION OF THE CATHOLIC BISHOP OF NESQUALLY, in the Territory of Washington, Plaintiff,
vs.
JOHN GIBBON, T. M. ANDERSON, and R. T. YEATMAN, Defendants.

To the Honorable John H. Hoyt, judge of the district court of the second judicial district of Washington Territory, holding terms at Vancouver:

Plaintiff, for amended complaint against the defendants above named, by leave of the court first had and obtained, alleges that plaintiff is corporation duly incorporated by an act of the legislative assembly of the Territory of Washington, entitled "An act to incorporate the Bishop of Nesqually, Washington Territory," which passed the council January 28th, 1861, and passed the house January 30th, 1861, and thereby became a law of said Territory.

2 That by section one of said act it was and is enacted that A. M. A. Blanchet, bishop of Nesqually, and his successors in office, and all persons whom he or they may think expedient to associate with him or them, be, and he is and they are hereby, declared a body politic and corporate under the name and style of the Corporation of the Catholic Bishop of Nesqually, in the Territory of Washington.

That Ægidius Junger, bishop od Nesqually, is the successor in office of said A. M. A. Blanchet as such bishop, and no other person or persons have ever been associated with such bishop as members of said body politic and corporation.

That by the further provisions of said act of incorporation it was and is enacted, among other things, that the ends of said corporation shall be for the benefit of religion, for works of charity, and for public worship; that said corporation shall be perpetual, and have power to acquire, receive, and possess by donation, gift, or purchase, and to retain and enjoy, property, real, personal, and mixed, and the same to sell, grant, convey, rent, or otherwise dispose of at pleasure; to contract and be contracted with, and to sue and be sued, plead and be impleaded, in all courts of justice, both in law and in equity.

3 That prior to August 14th, 1848, the Roman Catholic church established a mission and missionary station among the Indians and early settlers of the then Territory of Oregon, upon and near the north bank of the Columbia river in said Territory, upon six hundred and forty acres of land adjacent to what is now known as the town of Vancouver, in Washington Territory, and which tract of land is situated within township 2 north, of range 1 east, of the public surveys of the United States, as the same have since been extended over and laid out upon the public lands in said Territory.

That said mission and missionary station was established in 1838

by two Catholic missionary priests, Rev. Francis M. Blanchet and Modeste Demers, by and under the authority and direction of the then Catholic bishop of Quebec, whose diocese included all the country to the westward of the Rocky mountains to which Great Britain then laid claim, with instructions from said bishop:

1. To consider as the first object of their mission to draw out from barbarity and disorder the Indian nations spread in that country.

2nd. To consider as the second object of their mission to attend to the spiritual necessities of the Christians who, having adopted the morals of the Indians, lived in licentiousness and in forgetfulness of their duties.

3rd. To preach the gospel on every opportunity, either in public or in private; to study the Indian languages, so as to be able to publish a grammar of them; to prepare without delay for baptism the Indian women married to white men, so as to be enabled to validate their marriages; to give Christian instruction to the children, establishing for that purpose, as much as their means would permit, schools and catechisms in every tribe they would have opportunity to visit.

That said Catholic mission and missionary station established by said priests upon said 640 acres of land hereinabove mentioned was so established and has ever since been maintained upon said land solely for the purposes contained in said instructions above set forth, and said 640 acres of land was so occupied as such missionary station, and said instructions were being faithfully complied with by the priests of said Catholic church at said mission upon said tract of land on the 14th day of August, 1848, on which day was duly approved the act of Congress entitled "An act to establish the territorial government of Oregon."

That by section one of said act of Congress it was and is provided as follows: "That the title to the land, not exceeding six hundred and forty acres, now occupied as missionary stations among the Indian tribes in said Territory, together with the improvements thereon, be confirmed and established in the several religious societies to which said missionary stations respectively belong."

That on said 14th day of August, 1848, the said section of country within which said missionery station and mission was so established was in the possession of the company known as the Hudson's Bay Company, under license from the government of Great Britain, granted to said company while said territory was claimed by said government, and that by article 3rd of the treaty of June 15th, 1846, between the governments of the United States and of Great Britain, by which said last-named government relinquished its rights to said Territory of Oregon, including what is now Washington Territory, it was stipulated and provided that the possessory rights of the Hudson's Bay Company, and of all British subjects who may be already in the occupation of land or other property lawfully acquired within said Territory, shall be respected.

That the said license granted to said Hudson's Bay Company by

the government of Great Britain was a mere possessory right to establish posts within said Territory for trading purposes among and with the Indians, and said license did not invest a purport to invest said company with any right or title whatever in or to the soil, but with the bare right of occupancy for the purposes aforesaid; and that the said license duly expired and terminated by limit of duration on the 15th day of May, 1859; that in accordance
6 with the agreement of the United States, contained in said treaty, to respect the said possessory rights of said Hudson's Bay Company during the continuance of said license, the public surveys were never authorized by the United States to be extended over said land upon which said mission was situated on September 29th, 1859.

That in 1853 the said mission filed with the surveyor general of Oregon an official notice of its claims to the 640 acres of land surrounding the church building and other improvements of said mission thereupon, and promptly upon the expiration of said license of the Hudson's Bay Company the said mission notified the Commissioner of the General Land Office of the extinction of the rights of said company and asked for an official survey of said 640 acres of land so granted to said mission by said act of Congress of August 14th, 1848.

That accordingly the Commissioner of the General Land Office issued to the surveyor general of Washington Territory instructions to "proceed to extend the lines of the public surveys over the tract of country in question when the aforesaid possessory privileges (of the Hudson's Bay Company) have become extinct, and make regular returns of surveys, and transmit approved township plats thereof, laying off the mission on the principles laid down in
7 the 6th section of the act of Congress approved 27th September, 1850 (U. S. Statutes, vol. 9, page 498), and appropriately representing it on the plat of the township in which the same may be situated, and will of course properly designate on the official plats the tracts reserved by the United States for military or other purposes;" and that "such provisions (meaning thereby the said proviso in said act of August 14th, 1848) *is* understood to grant 640 acres to each separate and distinct missionary station referred to, and a like provision is made in the act to establish the territorial government of Washington."

That the surveyor general of Washington Territory did accordingly, under said instructions from said Commissioner, extend the public surveys over the township in which said 640 acres of land granted to said Catholic church for the purposes of said mission by said act of Congress of August 14th, 1848, is situated and make a plat thereof, in and by which survey and plat a tract of 640 acres, which had been so occupied by said missionary station as and for the purposes of said mission, was laid off as being the land so granted to said Catholic church as a missionary station by said act of Congress of August 14th, 1848, and said surveyor general duly reported said survey and plat to the Commissioner of the General
8 Land Office for his approval if found correct, a plat of which

survey, showing the parcel of land so surveyed as said mission claim and the protion thereof invaded by a pretended military reservation, is herewith filed, marked Exhibit "A," together with a copy of the field-notes of said survey, marked "Exhibit B," and made part hereof.

That in May, 1849, at the request and by the consent of the chief factor of said Hudson's Bay Company in charge of the interests of said company in Oregon, Major J. S. Hathaway, of the United States Army, established a military post and depot at Fort Vancouver upon the lands so granted to the Catholic church as a missionary station, and took possession of all of the said 640 acres of land upon which said mission was located which was not enclosed by said company, subject to the possessory rights of said company under said article three of said treaty.

That at that time there was belonging to said mission and to said Catholic church at said missionary station upon said 640 acres of land a church building, erected outside the enclosure of said company, and a mission grave-yard of about five acres of land, distant northeast from said church about two hundred yards, and a school-house, owned by said missionaries, about four hundred yards in a southerly direction from said church building.

That on said 24th day of August, 1848, religious services were held in said church and a marriage celebrated therein by said Catholic priests occupying said missionary station; the said five acres of ground was in use as a burying-ground of said mission, and the said school-house was in use as such, and the remainder of said 640 acres of land was used and occupied by Indians and other persons as a camping-ground while trading with said company and receiving religious instructions from said missionary priests occupying said station, and who were engaged in visiting and religiously instructing the persons camping upon said land.

That on October 31st, 1850, the War Department of the United States Government declared a military reservation of about four miles square, including said 640 acres of land so granted and belonging to said Catholic church as a missionary station at Vancouver by said act of August 14th, 1848, but, upon passage of the act of Congress of February 14th, 1853, whereby military reservations were reduced and limited to 640 acres of land, by order of said War Department of October 29th, 1853, said military reservation at Vancouver was so reduced in extent and was pretended to be extended over and to include 430 acres of said 640 acres of land so granted to said Catholic church by said act of August 14th, 1848.

That said proceeding of the War Department was utterly contrary to and subversive of the rights of said Catholic church and of this plaintiff in the premises, and was at the time duly protested and remonstrated against by said church, but without avail.

That the Commissioner of the General Land Office, having duly considered said resurvey and report thereof of the surveyor general of Washington Territory, refused to approve the same as correct, from which decision an appeal was duly taken to the Secretary of

the Interior, who declined to act upon said appeal, as will fully appear from a copy of his decision, dated July 20, 1864, hereunto attached and made part of this complaint, marked "Exhibit C."

That afterwards, in 1871, said matter of the claim of said Catholic church to said 640 acres of land came again before the Secretary of the Interior for his decision and determination of the question connected with said claim, whereupon said Secretary referred said questions to the Attorney General of the United States for his opinion touching the questions of law control-ing said case upon the facts as established by the proofs and evidence, and requested his opinion as to the principles of law governing the case.

That afterwards, on January 29th, 1873, Honorable W. H.
11 Smith, Assistant Attorney General of the United States, furnished to the Commissioner of the General Land Office his opinion in writing in the premises, in which he admitted and recited the establishment of said mission upon said land in 1838 by the said priests, F. N. Blanchet and M. Demers, under and in accordance with said instructions from the bishop of Quebec, for the purposes expressed in said instructions hereinbefore set forth, and admitted that said mission and missionary station was so in the possession and occupancy of priests of said Catholic church on August 14th, 1848, and that during said ten years from 1838 to 1848 these priests devoted themselves to the missionary cause by preaching to and baptizing Indians, selemnizing marriages among them, devoting themselves to the redemption of the Indians and the instruction of the whites who were living there, and holding religious services prior to August 14th, 1848, in a church building outside the enclosure of the Hudson's Bay Company, erected and donated to said mission by the chief factor of said company, said priests being supported during said time by the aid of the Society of the Propogation of the Faith of Quebec, and of a like society in France, by subscriptions of the servants of the Hudson's Bay Company, by the products of certain farms belonging to the mission, and by donations from the Hudson's Bay Company and its servants, and that
12 from 1846, in which year said church was dedicated, the mission had been known by the name of St. James.

That under said state of facts the mission claimed said 640 acres of land, which claim was opposed by three different interests: First, by the military authorities in charge of the United States military reservation at Vancouver, a portion of which is covered by the claim of the mission (under the occupation thereof as such reservation as hereinbefore stated); second, by the widow and heirs of Amos M. Short; third, by the citizens of Vancouver, under the town-site act of 1844.

That, leaving the questions of fact as to said claims to be determined by the Commissioner, as it was within his jurisdiction to do, the said Assistant Attorney General proceeded to advise said Commissioner as matter of law that said proviso in said act of August 14th, 1848, was an immediate confirmation of the title to the land therein mentioned for the benefit of all who should at that time be within its provisions, and that occupancy as a missionary station

among the Indians at the date of the pasdage of the act is the qualication prescribed to bring the grantee within said provisions.

That in the opinion of said Assistant Attorney General only the land actually occupied and reasonably set forth by specific boundaries, with the improvements thereon, not exceeding 640
13 acres, was by said grant confirmed to any mission; that by such occupation was meant designation by prescribed boundaries by such assertion of the claim as would be notice to any other person attempting to gain possession, such as an enclosure or the marking out of the claim by stakes or blazes on the trees, or common reputation among the settlers and Indians as to its bounds, which construction of the term "occupied," as used in said confirmatory act of August 14th, 1848, was admitted by said Assistant Attorney General to be contrary to the construction which had theretofore been placed upon said word in that connection by the Commissioner of the General Land Office, which previous construction was that "such provision is understood to grant 640 acres to each separate and distinct missionary station referred to," which said Attorney General alleged to be in his opinion "an erroneous construction of the proviso," and he recommended, therefore, to the Commissioner to give to said proviso in section one of said granting act of August 14th, 1848, the construction so placed upon the same by him, the said Assistant Attorney General, and to hold that "on the 14th day of August, 1848, the date of the passage of the act, the Mission of St. James was in actual possession of a small piece of land, upon which had been erected a church, in which the priests there stationed held religious worship;" and that said mission was, at the
14 date of said act, only in occupancy of the land covered by the church edifice and such land as was appurtenant to it, and that the society to which said mission belongs has, th-refore, a vested title under the act of 1848 to the land upon which the church edifice stands, and as much appurtenant thereto as at the date of the passage of the act was within the enclosure or used for church purposes;" all of which will more fully and at large appear by reference to a copy of said opinion of said Assistant Attorney General, hereunto annexed and made part of this complaint, and marked "Exhibit D."

That said Hudson's Bay Company occupied said land under said license from the British government only for trading purposes, without intention or capacity to hold or acquire any title whatever to the soil or any other than such bare possessory right for trading purposes, while said Catholic church occupied said 640 acres of land for the purposes mentioned in said act of August 14th, 1848; but that the protection of said possessory right in said company until the expiration of its said license, which was guaranteed to said company by said provision of said treaty, rendered it unlawful and impossible for said Catholic church, or its said priests, or any occupant of said mission to attempt to survey, enclose, stake out, blaze, or other-
15 wise establish the boundaries of said 640 acres of land granted to said mission until after the expiration granted to said

license and the termination of said possessory rights of said Hudson's Bay Company upon said land.

That the said opinion of the Assistant Attorney General was erroneous in law in attempting thus, upon the facts admitted and conceded in and by the said opinion, to restrict the occupancy of said mission to the small parcel of ground covered by such church edifice and contained within the enclosure appurtenant thereto, when in truth and according to said facts said mission was entitled under said act of August 14th, 1848, to the 640 acres of land granted to said mission by said act and is the owner thereof and is, under the act of December 22nd, 1854 (Revised Statutes U. S., sec. 2447), entitled to a patent thereto from the Government, but that nevertheless the honorable Secretary of the Interior, being misled by said opinion of said Assistant Attorney General as to the law of the case, and which, admitting and conceding the facts stated in said opinion, did decide contrary to law that said mission was and is entitled to only the parcel of ground covered by said church edifice and contained within the enclosure appurtenant thereto, as will more fully appear by a copy of said decision of the Secretary of the In-
16 terior contained in his said letter of March 11th, 1872, hereunto annexed and made part of this complaint, marked Exhibit "E."

That neither the claim of said widow and heirs of Amos M. Short nor of said citizens of Vancouver attached to or covered any part of said 430 acres of land, the right to which is involved in this suit, the only contest thereabout being as to whether the same belongs to said mission and was properly reserved and set apart as a portion of a military reservation for the Government.

That as to the remaining 210 acres of said 640 acres, excluding the 430 acres in controversy in this suit, the claim of said Catholic church thereto, as belonging to and constituting a part of its said missionary station, was disallowed by the officers of the Land Department, and a patent was issued to said widow and heirs of Amos M. Short for a portion thereof, and another patent was issued to the citizens of said town of Vancouver, under the town-site law, for another portion thereof, and the conflicting claims of said church and of said patentees to the ownership thereof have been adjusted and compromised between themselves.

That in 1849, when said soldiers of the United States first entered upon the said 430 acres now claimed by them as a part of their military reservation, there was no other public land adjoining
17 or adjacent to the ground upon which said church building then stood, out of which said grant of 640 acres of land to said Catholic church for its missionary station or any part thereof could be obtained, surveyed, or allotted to said church, except the said 210 acres so patented to other parties and the said tract of 430 acres upon which said church building, grave-yard, and schoolhouse were so located, and which is in controversy in this action.

That in pursuance of said decision of the Secretary of the Interior the surveyor general of Washington Territory did, on August 28th, 1883, by written notice of that date, certify "to al- parties in interest

in the matter of the Roman Catholic Mission of St. James, Vancouver, Washington Territory, for 640 acres of land asserted under the act of Congress of August 14th, 1848;" that "the Commissioner of the General Land Office, under date of August 4, 1883, decides that upon the whole record in the case as it now exists that the survey executed July 10th, 1872, by Levi Farnsworth, U. S. deputy surveyor, covering an area of $\frac{46346}{100000}$ of an acre, being a part of section 27, in T. 2 N., R. 1 E., W. T., is a substantial compliance with the department decision of March 11th, 1872, and said survey is hereby approved and adopted by this office as the final and official
18 survey of the grant in question," and that sixty days were given from August 28th, 1883, for an appeal from said decision to the Secretary of the Interior; all of which will more fully appear by reference to a copy of said notice, hereto annexed and made part of this complaint, marked "Exhibit E."

That such appeal to the Secretary from said decision was duly taken within said sixty days, to wit, on the — day of ——, 1883, but that on said appeal said decision of the Commissioner was by the Secretary wrongfully affirmed on the — day of ——, 18—, and said Commissioner has ever since refused and now refuses to issue to said mission or to this plaintiff a patent for more than said $\frac{46.346}{100.000}$ of an acre of land, the same being the land covered by said church edifice and contained within the enclosure appurtenant thereto on August 14th, 1848, as said Secretary was erroneously advised by said Assistant Attorney General in his said opinion of January 29th, 1872, and that the mistake of law made by said Attorney —, as hereinbefore stated, and adopted and acted upon by said Secretary of the Interior, is the reason and the only reason for said refusal to issue to said mission a patent including said 430 a-res of land.

That by the law of said Catholic church the bishop of each diocese is appointed to accept grants and receive conveyances to himself in trust for the use and benefit of said church, and that the
19 Catholic bishop of Nesqually is the person and officer of said church to whom the said grant contained in said act of August 14th, 1848, inured for the benefit of said Catholic church.

That plaintiff, as the legal and authorized representative of said mission and of said Catholic church, is now the equitable owner of said 430 acres of land as being included in the 640 acres of land granted to said mission, and is entitled to have said patent issued to plaintiff for said land.

That within the last few weeks next before the bringing of this action the War Department of the United States did, as plaintiff is informed and believes, determine to disregard the rights of plaintiff and of said Catholic church in the premises, as well as to disregard the action and decision of the officers of the General Land Office in holding that said church is the grantee of and plaintiff entitled to a patent to even the said $\frac{46.346}{100.000}$ of an acre of land, and said War Department has resolved and commenced forcibly to eject plaintiff from said premises and to dispossess said church of and to destroy its property upon that portion of said land which before and ever

since August 14th, 1848, has been in its sole and exclusive possession as its missionary station upon said premises, including said $\frac{46.346}{100.000}$ of an acre of land.

That the defendants, John Gibbin, T. M. Anderson, and R. T. Yeatman, officers and soldiers of the United States Army, on or about the 4th day of January, 1887, and on divers days and at divers times thereafter, accompanied by soldiers under their command and acting by their authority and direction, entered upon that portion of said 430 acres of land which has so been in the exclusive occupancy and possession of said church and of plaintiff, as its lawfully appointed agent to hold such possession, and, pretending to be thereunto authorized by said War Department of the United States, forcibly tore down and removed fences and enclosures of plaintiff thereon of long standing and dug up and plowed the soil, and cut down and destroyed valuable fruit-bearing orchard trees, and also ornamental trees planted and growing thereon, the property of the plaintiff and of said Catholic church, and said defendants are threatening, intending, and proceeding to, and will, unless enjoined and restrained from so doing, cut down and destroy many other valuable fruit, orchard, and ornamental trees upon said premises, and tear down, destroy, and remove all the fences, enclosures, and buildings of plaintiff and of said Catholic church upon said land, including the church edifice and enclosures upon said $\frac{46.346}{100.000}$ of an acre of land, and lay drains and sewers in and upon and establish roads upon and over said lands, whereby great and irreparable damage will be done to said premises and to plaintiff as the owner thereof, which cannot be compensated in damages, and plaintiff will be compelled to institute and prosecute many costly and vexatious actions at law in the effort to protect the rights of plaintiff and its property in and upon said premises from destruction and to maintain the right of plaintiff in and to the possession, occupancy, and enjoyment of said premises and property; wherefore an emergency exists requiring the immediate interposition of this honorable court by injunction to prevent such wrongs and injury.

That plaintiff and said Catholic church have exhausted all the remedies provided by law in the effort to protect said property from destruction, and to procure and maintain the rights of plaintiff and of said church thereto, and to the possession and occupancy thereof, and to procure a patent to be issued to plaintiff, as the lawful agent and representative of said church, for said 430 acres of land so claimed by the War Department as a military reservation; and the plaintiff and said church are without remedy at law in the premises.

Wherefore plaintiff prays that an injunction issue out of this honorable court, directed to the said defendants, John Gibbon, T. M. Anderson, and R. T. Yeatman, and to each of them, inhibiting, restraining, and enjoining them and each of them from, by themselves or by any agent, employee, soldier, or other person or persons acting by or under the authority, command,

control, direction, or permission of them or either of them, entering upon or in any manner interfering with the said premises or any portion thereof upon said 430 acres of land covered or occupied by or being within the said fences or enclosures of plaintiff, or which has heretofore been exclusively occupied by the fences, enclosures, and buildings of plaintiff and of the said Catholic church, and from tearing down or removing any of the said fences or enclosures, or digging up, plowing, or interfering with, or making or using any road or traveled way upon any part of the soil of said premises which has been so enclosed by plaintiff and by said church; and from cutting down or injuring any tree or trees within said enclosure of plaintiff, and from tearing down and removing or otherwise disturbing any house or building whatever of plaintiff upon said premises, or otherwise or in any manner entering upon said premises or interfering with the property or possession of plaintiff pertaining to the same, until the further order of this court; that plaintiff be adjudged and decreed to be the equitable owner of and entitled to a patent to said four hundred and thirty acres of
23 ground and the whole thereof, and that said injunction be decreed to be perpetual against defendants and each of them and against their successors in office; and command, as soldiers of the United States and as individuals, that defendants be decreed to surrender to plaintiff the possession of said four hundred and thirty acres of land, and that plaintiff have such other and further relief in the premises as is or may be equitable, and have and recover of and from defendants their costs and disbursements of this action.

WHALLEY, BRONOUGH AND NORTHUP,
Attorneys for Plaintiff.

WASHINGTON TERRITORY, } ss:
Clarke County, }

I, Aegidius Junger, being duly sworn, say on oath that I am the bishop of Nesqually named in the foregoing amended complaint and in the articles of incorporation of the plaintiff in this action, and that said amended complaint is true as I verily believe, and that the defendants to said action, by themselves and persons acting under their authority and command, have torn down the fences, cut down the trees, and are threatening and intending
24 and are proceeding to tear down the remaining fences and enclosures, to cut down the remaining trees, and to tear down and remove the buildings of plaintiff, and to dig up and plow the the soil, and to lay drains and sewers therein upon that part of said 430 acres of ground which has for many years past been in the exclusive possession and enjoyment of said Catholic church and of plaintiff, as set forth in said complaint.

AEGEDIUS JUNGER,

Subscribed and sworn to before me this 31st day of January, 1887.

——— ———.

STATE OF OREGON, } ss:
Multnomah County, }

I, E. C. Bronough, one of plaintiff's attorneys, do hereby certify that I have carefully compared the foregoing copy of amended complaint with the original thereof, and that it is a correct copy of said original amended complaint and of the whole thereof.

Dated 1st day of February, 1887.

C. E. BRONOUGH,
Of Attorney for Plaintiff.

25 *Answer.*

In the District Court of the Second Judicial District of Washington Territory, Holding Terms at Vancouver.

THE CORPORATION OF THE CATHOLIC BISHOP OF NESQUALLY, in the Territory of Washington, Plaintiff,
vs.
JOHN GIBBON, T. M. ANDERSON, and R. T. YEATMAN, Defendants. } No. 1879.

And now, on this 9th day of April, A. D. 1887, came the above-named defendants and the United States of America, and for answer to the plaintiff's amended complaint say:

1st. That after the commencement of this action the United States attorney for the Territory of Washington was directed by the honorable Attorney General of the United States to appear in this action and to defend herein and protect herein the interests of the United States of America involved in this action.

2nd. That on the 8th day of April, A. D. 1887, the United States attorney for the said Territory of Washington moved the court for leave to intervene in this action in the name of and for the
26 United States of America, and in the name of and for the said United States to file herein the answer of the said United States to the amended complaint of the plaintiff; that thereupon an order to the effect was made by said court, and, the plaintiff consenting thereto in open court, it was further ordered that the said United States and the said John Gibbon, T. M. Anderson, and R. T. Yeatman answer jointly the matters set forth in the plaintiff's said complaint.

3rd. The United States and the said defendants deny that prior to August 14th, 1848, or at any time the Roman Catholic church established a mission and missionary station among the Indians and early settlers of the then Territory of Oregon, upon and near the north bank of the Columbia river in said Territory, upon six hundred and forty acres of land, or upon any part of said land adjacent to what is now known as the town of Vancouver, in Washington Territory, or upon any tract of land situated within township 2 north, of range 1 east, of the public surveys of the United States, as the same have since been established over and laid out upon the public lands in said Territory.

The said United States and said defendants deny that said missionary station was established in 1838 or at any time by two Catholic missionary priests, Rev. Francis N. Blanchet and
27 Modest Demers, or by any other priests, under the direction of the Catholic bishop of Quebec or any other person; and the United States and the said defendants deny that the said Catholic mission and missionary station mentioned in the plaintiff's amended complaint was, in the year 1838 or at any time, established by said priests or any other persons upon the 640 acres of land mentioned in said complaint or any part thereof, or that said mission and missionary station has since 1838 or at any time been maintained upon said land for any purpose whatever; and the United States and the said defendants deny that said 640 acres of land or any part thereof was in 1838 or at any time or was on the 14th day of August, 1848, or at any time occupied as a missionary station or as a mission; and the United States and the said defendants deny that the mission mentioned in said complaint and the missionary station mentioned therein, or any mission or missionary station whatever, was ever established on or maintained on said 640 acres of land or any part thereof. The United States and the said defendants deny that in May, 1849, or at any time there was belonging to said mission and to said Catholic church or to either of them, at the missionary station mentioned in said complaint, upon said 640 acres of land, a church building erected within or without the enclosure of
28 the Hudson Bay Company, or a missian grave-yard of five acres or any other quantity of land, or a school-house *around* by said missionaries.

The United States and the said defendants have no knowledge or information sufficient to form a belief as to religious services and a marriage on the 14th day of August, 1848, as alleged in said complaint, and they therefore deny the same.

The United States and said defendants deny that said five acres of ground was in use as a burying-ground of said mission, and also deny that the said school-house was in use by said mission, and the United States and said defendants deny that the remainder of said 640 acres of land or any part thereof was used and occupied by Indians and other persons as a camping-ground while trading with said company and receiving religious intructions from said missionary priests, so called; and the United States and said defendants deny that said missionary priests were occupying said station or were engaged in visiting and religiously instructing the persons camping on said land.

The United States and the said defendants deny that the proceedings of the War Department *was* contrary to and subversive of any of the rights of the Catholic church or of the plaintiff or of said so-called mission in the premises, and the United States and the said defendants deny that the proceedings of the said War De-
29 partment *was* at the time or at any time protested and remonstrated against. The United States and the said defendants deny that on the facts as they were submitted to said Assistant Attorney General Smith, as set out in said complaint, the opinion

of said Assistant Attorney General Smith was erroneous in law, and they deny that on said facts and opinion the Honorable Secretary of the Interior was misled, as the plaintiff hath alleged.

The United States and the said defendants deny that the conflicting claims between the plaintiff, the St. James mission, the Catholic church, and the widow and heirs of Amos M. Short, and the citizens of the town of Vancouver, as the plaintiff in his said complaint hath alleged, have been adjusted or compromised. The United States and the said defendants deny that the mistake of law alleged to have been adopted by the Secretary of the Interior is the reason and only reason for the refusal to issue to said mission a patent for said 430 acres of land. The United States and the said defendants deny that the War Department or that the said defendants have resolved to forcibly or otherwise eject the plaintiff or to dispossess the church or to destroy the property of the church; and they deny that said War Department or the defendants, or any one acting under them, have commenced to forcibly eject the plaintiff and said
30 church from any part of said $\frac{46,346}{100.000}$ of an acre; but the United States and the said defendants admit that as to all of said 430 acres save said $\frac{46,346}{100.000}$ of an acre they intent to, if necessary, forcibly eject and remove the plaintiff and all other persons therefrom, except those in the military service of the United States, acting in the premises under instructions from the War Department of the United States.

The United States and the defendants deny that John Gibbon, T. M. Anderson, and R. T. Yeatman, on the 4th of January, 1887, or at any time, entered upon that portion of said 430 acres of land embraced in said $\frac{46,346}{100.000}$ of an acre, as the plaintiff hath alleged; and the United and the defendants deny that said defendants or that the War Department of the United States threaten or intend to in any way injure or destroy or remove or invade the church edifice or enclosure or trees or ground, or to lay drains or sewers in or over or upon any part of said $\frac{46,346}{100.000}$ of an acre, or in any way, manner, or form to interfere, hinder, or annoy the plaintiffs, its priests and agents, in the full and free use and enjoyment of said $\frac{46:346}{100.000}$ of an acre.

First Defense.

And the United States and the said defendants, by way of a first and further defense, allege and say—
31 That the Hudson Bay Company hereinafter and in said complaint mentioned was a commercial company created by an act of the sovereign and the Parliament of Great Britain some time prior to the year 1825 for the purpose, among other things, of trading with the Indians inhabiting the northwest part of the North American continent, and were authorized to establish trading posts to that end.

That in the year 1825 the said Hudson Bay Company took absolute control and possession of the 640 acres of land mentioned in

the complaint, and established thereon and on lands adjacent and adjoining the same their post for trading purposes and a fort to protect their servants.

That said Hudson Bay Company on said 640 acres of land erected a fort in the shape of a parallelogram, 750 feet by 500, and enclosed a large part of said 640 acres of land by a picket wall over twenty feet high; that said company took possession of all land in — about said fort and erected thereon buildings for the use of their servants, and among the buildings so erected were the church and other buildings mentioned in said complaint, and that the grave-yard in the said complaint mentioned was the grave-yard attached to the post and fort of said Hudson Bay Company.

32 That on the 14th day of August, 1848, and from the year 1825 until the year 1849, the post and fort and buildings, including said church, school-house, and grave-yard and the entire 640 acres of land, with other land adjoining the same, was the metropolitan establishment of the Hudson Bay Company on the Pacific, under the superintendency of its agent, John McLaughlin, Peter Skeen Ogden, and Dugald Mactarvish, and that for said period of time the Hudson Bay Company prescribed the laws, administered justice, and cared for the population residing on said 640 acres of land in a manner as though it were a principality or State, subject only to the nominal sovereignty of Great Britain; that in the employ of said company at said post were a great number of French Canadians and other white persons, who were of the Roman Catholic faith; that a short time prior to the year 1838 the Hudson Bay Comp. requested the bishop of Quebec, in Canada, to send to said post of the company a priest for the purpose of caring for the faith and morals of the said company's servants of the Roman Catholic faith.

That the priests, Blanchet and Demers, mentioned were sent in compliance with said request, and that said Hudson Bay Company built and owned the church mentioned in the complaint and the school-house, and that said company never surrendered the ownership of said church to the said priests or said plaintiff or to any one else save the United States of America.

33 That no such mission as the plaintiff hath alleged ever existed on said 640 acres of land, but that said priests and their successors were allowed to occupy said church and a small portion of land around said church, not to exceed ½ acre, by the sufference only and by permission of the company and under the pay of the company, as the servants of the said Hudson Bay Company.

That said 640 acres of land was used by said Hudson Bay Company until May 13th, 1849, as its metropolitan post, and that the Catholic church and the so-called St. James mission was only an incident and subordinate part of the occupation of said Hudson Bay Company.

That on May 13th, 1849, the military authorities of the United States, under instructions of the War Department and by permission and under an agreement with the Hudson Bay Co., took pos-

session of said 640 acres of land and established thereon a military post of the United States and remained thereon and thereafter until the present time, and that shortly after the establishment of said military post by and in the manner provided by law the President of the United States reserved said 640 acres of land for a military post of the United States, and it is now such military reservation, and since May, 1849, has been so occupied by the military authorities of the United States as one of the military reserves of the United States.

34

Second Defense.

The United States and the said defendants further say:

They here repeat each and every allegation of the said first separate defense and make it a part of this defense.

That at no time prior to May 28th, 1853, did the St. James mission, or the plaintiff, or the Catholic church, or the priest of said church, or the priests mentioned in said complaint, or any one for said mission or church lay claim to or assert any interest or claim or estate in or to said 640 acres or any part thereof.

That on May 28th, 1853, for the first time the plaintiff made a claim for said land and filed the notice as set forth in the complaint; that the said plaintiff and *and* the said bishop mentioned in said complaint and the priests therein mentioned, after the filing of said notice, procured false and fraudulent affidavits and testimony to be forwarded to the Commissioner of the General Land Office and the Secretary of the Interior, touching the occupation of said land by said mission, and touching the establishment of said mission, which testimony was false and untrue, in this: that it failed to disclose the fact that said occupancy of said church and school and grave-

35 yard was under the Hudson Bay Co., as set forth in the first separate defense herein, although the persons giving said false testimony well knew the facts to be as set out in said first separate defense at the time they gave said testimony.

That the award by the Commissioner of the General Land Office and Secretary of the Interior and said Assistant U. S. Attorney General givin- to said mission $\frac{46,346}{100,000}$ of an acre was made by said officers under the belief that said testimony was true and when said officers were wholly ignorant of the facts, as set out in the first separate defense.

And the United States and said defendants say that said plaintiff has never accepted a patent as awarded, but refuses to accept the same.

Third Defense.

The United States and the said defendants here repeat each and every allegation of the first and second separate defenses and make them part of this defense.

That from May, 1849, until May 23rd, 1853, the plaintiff and the parties whom he represents in this action well knew that the United

States was occupying said 640 acres of land as a military reservation.

That from May, 1849, until May 28th, 1853, the United
36 States made many valuable and permanent improvements on said land in building dwelling-houses, barns, and quarters for the military and in clearing up said land.

That said improvements aggregated $200,000 and upwards, and that said plaintiff and the parties he represents knew that said improvements were being made at the time they were made, and that the plaintiff nor did any one he represents object thereto or lay any claim whatever to the property in which such improvements were being from time to time made.

The United States and said defendants say that the value of said military reservation at the present time and the improvements thereon is $400,000, the land being worth as land about one hundred dollars per acre, and that the value of said $\frac{46,346}{100,000}$ is worth not to exceed $1,000.00.

Therefore the defendants and the said United States ask that the entire 430 acres, including the said $\frac{46,346}{100,000}$ of an acre, may be decreed to be the property of the United States of America, freed of any claim of the plaintiff, and for costs and disbursements therein.

W. H. WHITE,
Att'y for Defendants and U. S. Att'y for Washington Territory.

37 TERRITORY OF WASHINGTON, } *ss*:
County of Clarke, }

Thomas M. Anderson, being duly sworn, on oath says that he is one of the defendants in the above action; that he has heard read the above answer, knows its contents, and believes the same to be true.

THOMAS M. ANDERSON.

Subscribed and sworn to before me this April 9th, 1887.
R. G. O'BRIEN, *Clerk.*

Filed April 9th, 1887.

R. G. O'BRINE, *Clerk.*

38 *Reply.*

In the District Court of the Second Judicial District of Washington Territory, Holding Terms at Vancouver.

THE CORPORATION OF THE CATHOLIC BISHOP OF NESQUALLY, in the Territory of Washington, Plaintiff,
vs.
JOHN GIBBON, T. M. ANDERSON, and R. T. YEATMAN, Defendants. } No. 1879.

Plaintiff, for reply to the first separate defense set forth in the answer of the U. States and of said other defendants to plaintiff's amended

complaint herein, denies that said Hudson Bay Company at any time took any control or possession of any part of the said 640 acres of land or of the said 430 acres of land in controversy in this action otherwise or for any other purpose than for the establishment thereon—a trading post among the Indians, as stated in said amended complaint, and denies that said company enclosed any other portion of said 640 acres of land than the post thereof, 750 by 500 feet, occupied by said fort and by such buildings as were occupied by servants of said company.

And deny that on August 14th, 1848, said company had
39 possession of or exercised any control over said church, school-house, or mission grave-yard mentioned in said amended complaint or the ground upon which they were or either of them was located or situated, and denies that said company ever had any control or possession of any part of said 430 acres of land in controversy in this action, except under its bare possessory rights for trading purposes mentioned in said amended complaint.

Denies that said grave-yard was attached to the fort or posts of said Hudson Bay Company.

Denies that any time the said Hudson Bay Company requested the bishop of Quebec, in Canada, to send to said post of said company any priests for any purpose whatever or otherwise.

Denies that either of said priests Blanchet or Demers were sent in compliance with any request of said company, and denies that said company built said school-house, and denies that said company surrendered the possession of said church to the United States or did not surrender the same to said priests.

Denies that at any time after 1846 said Hudson's Bay Company presented any laws to the population residing on said 640 acres as though it were a principality or subject to the sovereignty of Great Britain or otherwise.

40 2nd. Denies that either of said priests or any successor of either of them ever occupied said church or any ground around the same under the pay of said company or as the servant of said company.

And denies that either of them ever was a servant of or under pay by said company.

Admits that said company had a general possession and control over the entire section of country for trading purposes in which said 640 acres of land was located, and that said priests occupied said church by invitation and request of said company until said church was donated to said mission and dedicated to religious purposes, as in said complaint alleged, after which time said church edifice was occupied by said priests and their successors as the property of said Catholic church and mission and not otherwise.

Denies that said church or the said mission was only or at all an incident or subordinate part or any part of the occupation of said Hudson Bay Company.

Denies that the military authorities of the United States took possession on May 13th, 1849, or at any time, by permission of or under agreement with said company, of any part of said 640 acres

of land except so much thereof as was occupied by the camps in which the soldiers then at Vancouver were housed and sheltered, and denies that the President of the United States ever lawfully reserved any part of said 640 acres of land for a military post
41 of the United States, and denies that any part thereof is now or ever was a military reservation or has ever been occupied by any military authority as a lawful military reservation or any military reservation of the United States.

And for reply to said second defense set forth in said answer plaintiff makes the denials of plaintiff's reply to said first defense a part of plaintiff's denials to said second defense.

And plaintiff denies that at no time prior to May 28th, 1853, did the St. James mission or the Catholic church or the priests of said church mentioned in said complaint or any one for said mission or church lay claim to or assert any interest or claim in or to said 640 acres or any part thereof.

Denies that on May 28th, 1853, for the first time said church made a claim to said land.

Denies that said or any bishop mentioned in said complaint or any priest therein mentioned or the plaintiff ever at any time, either after the filing of any notice or otherwise or at all, procured any false or fraudulent affidavits or testimony to be forwarded to the Commissioner of the General Land Office or the Secretary of the Interior touching any occupancy of said land by said mission or touching the establishing of said mission, or that any such
42 testimony was false or untrue in any particular.

And denies that it ever was the fact that any occupancy of said church or school-house or grave-yard was under the Hudson's Bay Company, as set forth in the first separate defense of said answer, and denies that any person giving any of said testimony gave false testimony or knew the facts to be as set out in said first separate defense, either at the time they gave said testimony or at any time whatever.

Denies that award of the Commissioners of the General Land Office or of the Secretary of the Interior or of said Assistant Attorney General, giving to said mission $\frac{46\,346}{100\,000}$ of an acre, was made by either of said officers when he or either of them was ignorant of any fact; and *and* denies that the facts set out in the first separate defense are true.

Plaintiff, for reply to the third separate defense in said answer set forth, makes the denials of plaintiff's reply to said first and second defense a part of his denials to said third defense.

Denies that plaintiff or any party whom plaintiff represents, from May, 1849, until May 28th, 1853, or at any other time, knew—
43 And denies it to be a fact that the United States was during said time or at any time lawfully occupying any part of said 640 acres of land as a military reservation.

Plaintiff denies knowledge or information sufficient to form a belief as to the value of the alleged improvements in said third defense claimed to have been erected upon said land from 1849 until

May 28th, 1853, by the United States, or as to whether said improvements were of the value of $200,000, and plaintiff therefore denies said allegation of value to be true; and denies that those whom plaintiff represents did not object to the making of said improvements and the erection of said alleged buildings, or did not lay claim during said period from 1849 to May 28th, 1853, to the property on which such alleged improvements were from time to time made.

And denies knowledge or information sufficient to form a belief as to the value of the alleged improvements now on said land and claimed in said third defense to have — placed, made, and erected thereon by the United States, and therefore denies the allegation contained in said third defense as to the value of said alleged improvements and buildings.

And plaintiffs deny that said Hudson's Bay Company ever at any time occupied or had right of possession — any fraction of
44 said 640 -- of land, except under and by virtue of its bare possessory right of temporary occupancy for trading purposes set forth in said amended complaint.

Wherefore plaintiff prays judgment herein as in and by said amended complaint is prayed.

WHALLEY, BRONOUGH AND NORTHUP,
Attorneys for Plaintiff.

WASH. TER., } ss:
Clarke Co., }

I, Ægidius Junger, being duly sworn, says on oath that I am the Catholic bishop of Nesqually mentioned in the pleadings in this case, and that the foregoing reply of plaintiff in this action is true, as I verily believe.

ÆGIDIUS JUNGER.

Subscribed and sworn to before me this 9th day of April, A. D. 1887.

R. G. O'BRIEN, *Clerk.*

Received and filed April 9, 1887.

R. G. O'BRIEN, *Clerk.*

45 *Ruling on Motion to Set Aside Restraining Order.*

THE CORPORATION OF THE CATHOLIC BISHOP OF NESQUALLY, in the Territory of Washington, Plaintiff,
vs.
JOHN GIBBON, T. M. ANDERSON, and R. T. YEATMAN, Defendants.
} No. 1879.

Now, on this day, this cause coming on to be heard on the motion to set aside the restraining order heretofore granted by the judge of this court, made and granted in this case on the 25th of January, 1887, and the court, having heard the argument of counsel for both parties, Mr. W. N. White, U. S. attorney for the Territory, appearing

for defendants, and Mr. E. C. Bronough appearing for plaintiff, takes said motion under advisement, and it is ordered that the temporary restraining order aforesaid be continued in so far as the same is applicable to the parcel of land claimed by plaintiff to be in its exclusive possession, consisting of and containing about four and $\frac{22}{100}$ acres of land upon which the church edifice and other buildings adjacent and pertaining thereto *and* erected and which in-
46 cludes the mission college building heretofore, as alleged in the complaint, solely occupied by the plaintiff, until said order be modified or vacated by said court or the judge thereof.

JOHN P. HOYT, *Judge.*

Feb. 5, 1887.—Entered in Journal "F," on page 212, on February 7th, 1887.

THE CORPORATION OF THE CATHOLIC BISHOP OF NESQUALLY, Plaintiff, *vs.* JOHN GIBBON, ANDERSON, YEATMAN. } No. 1879. On Demurrer.

And now, April 6th, 1887, this cause coming on to be heard upon the defendants' demurrer to the plaintiff's complaint, the same is argued by counsel, W. H. White, Esq., U. S. attorney, appearing for the defendants, and A. C. Bronough appearing for the plaintiff, and the court, having heard the argument of counsel, takes the matter under advisement.

FRANK ALLYN, *Judge.*

Entered in Journal "F," April 6th, 1887, on page 250.

47 *Order and Ruling on Demurrer.*

THE CORPORATION OF THE CATHOLIC BISHOP OF NESQUALLY, in the Territory of Washington, Plaintiff, *vs.* JOHN GIBBON, T. M. ANDERSON, and R. T. YEATMAN, Defendants.

And now, on this 8th day of April, A. D. 1887, this cause came on to be heard on the demurrer heretofore filed herein on February 5th, 1887, by W. H. White, Esq., U. S. attorney for Washington Territory, appearing in this action by direction of the Attorney General of the United States *and* to represent *of* the United States as well as the defendants herein to the amended complaint, and, after argument by counsel for plaintiff and defendant, and the court being fully advised in the premises and the said demurrer being general, the court overrules the same; and it appearing to the court on consideration of said demurrer that the plaintiff has failed to state any cause of action against said defendants, *after* either legal or equitable, to the 430 acres of land or any part thereof save $\frac{46.346}{100.000}$ part of an acre of land, 430 acres awarded and set apart for the Roman Catholic mission of St. James by the Commissioner of the

General Land Office and the Secretary of the Interior of the
48 United States, as appears in the said amended complaint, it is now ordered by the court that the temporary restraining order made herein by the judge of our said court on February 5th, 1887, be further modified and continued in force only in so far as the same is applicable to the said $\frac{46.346}{100.000}$ acre of land on which the church edifice is erected, and that all restraining orders heretofore made herein be, and the same are now, set aside so far as they operate on any portion of said 430 acres of land save said $\frac{46.346}{100.000}$ of an acre; as to said fraction of an acre they are continued in force until the further order of the court on the final hearing of this cause or until reasons are shown to vacate the same.

And it appearing to the court that the United States of America is the real party interested in resisting the claim of the plaintiff, and that the Attorney General of the United States has directed the United States attorney for Washington Territory to appear in this action and defend the interests of the United States herein, now, on motion of W. H. White, Esq., United States attorney for Washington Territory, it is ordered by the court, the plaintiff consenting in open court thereto, that the United States of America be and is allowed to appear herein and answer the amended complaint on file, and the counsel for the plaintiff and defendant- herein
49 having agreed in open court that but a single answer be filed, in which the defendants as well as the United States might join in answering the said amended complaint, the court consents thereto and directs that but a single answer be filed, in which the defendant- and the United States be joined and time is given to answer.

And it is further ordered that this order shall not be so construed as to effect the issues that shall be made on questions of fact by the pleadings, nor to prevent either party from introducing evidence upon such issue- of fact.

FRANK ALLYN, *Judge.*

Entered in Journal " F," on page- 260 and 261, on the 8th day of April, 1887.

50 *Order of Reference.*

THE CORPORATION OF THE CATHOLIC BISHOP OF NESQUALLY, in the Territory of Washington, Plaintiff,
vs.
JOHN GIBBON, T. M. ANDERSON, and R. T. YEATMAN, Defendants.

It is ordered by the court, the plaintiff and defendant- and the United States agreeing thereto in open court, that this cause be referred to W. Byron Daniels, Esq., of Vancouver, to take and report the testimony in this cause, including all documentary evidence in this case, with such exceptions and objections as counsel may make: Provided, however, that either party, when witnesses cannot be required to appear before said referee, may take the depo-

sition of such witness on notice or by commission as if said case had not been referred to said referee, as they might have done if this cause had not been submitted to said referee.

FRANK ALLYN, *Judge.*

Entered in Journal "F," on pages 264 & 265, on April 9th, 1887.

51 *Order.*

THE CORPORATION OF THE CATHOLIC — OF NESQUALLY, Plaintiff, *vs.* JOHN GIBBON, T. M. ANDERSON, and R. T. YEATMAN, Defendants. } No. 1879.

It is stipulated and agreed in open court by E. C. Bronough, Esq., attorney for plaintiff, and W. H. White, U. S. attorney for Washington Territory and attorney for defendants in the above action, and with the consent of the court, that this cause be heard at the chambers of the judge of this court, at Tacoma, on the tenth day of July, A. D. 1888, on the pleadings, evidence, and questions of law herein, and that the said judge shall make and file his findings of facts and conclusions of law herein on or before the first day of the November term of this court, at Vancouver, in the year 1888, so that either party shall have time to appeal to the January term, A. D. 1889, of the supreme court of Washington Territory; and as soon as the evidence and — filed by the referee, counsel for plaintiff shall be privileged and permitted to take the same, together with the pleadings, to his office for preparing his brief and argument in the cause, and shall, as soon as done with same, forward the pleadings and evidence to counsel for defendants, counsel so to do before said tenth day of July, 1888.

52 FRANK ALLYN, *Judge.*

Entered in Journal "F," on page 373, on April 3rd, 1888.

Order to Publish Depositions.

THE CORPORATION OF THE CATHOLIC BISHOP OF NESQUALLY, in the Territory of Washington, Plaintiff, *vs.* JOHN GIBBON, T. M. ANDERSON, and R. T. YEATMAN, Defendants. } No. 1879.

Now, on this day, comes the parties to this action, by their respective attorneys, and by consent of counsel for both parties, in open court, it is ordered that the depositions of Antone Langlois, Jean Baptiste, Zacharia Bolduse, witness on behalf of the plaintiff, which have been received by mail by the clerk of this court, — and by being filed may be opened and published and filed with the referee appointed to take the testimony of the witnesses and other evidence in this cause, to be by him incorporated with the evidence taken

by him and to be returned into court by him as a part of the same, together with his report thereof to the court.

FRANK ALLYN, *Judge.*

Entered in Journal " F," on page 374, on the 3rd day of April, A. D. 1888.

53 *Account of Referee.*

THE CORPORATION OF THE CATHOLIC BISHOP OF NESQUALLY, in the Territory of Washington, Plaintiff,
vs.
JOHN GIBBON, T. M. ANDERSON, and R. T. YEATMAN and THE UNITED STATES, Defendants. } No. 1879.

Now, on this 12th day of November, 1888, comes W. Byron Daniels, referee in the above-entitled cause, and makes his report and files the testimony taken in this cause, and renders to the court an account for his services rendered therein in behalf of the United States of America, the real party in interest as defendant in this action, amounting to the sum of one hundred and ninety dollars and twenty-five cents ($190.25), and the same is now in open court certified by W. C. White, the United States attorney, to be correct and just, and that services as charged for have been actually performed, and the court having examined said account and finding the same to be just and correct in all particulars, and that the services charged for have been rendered to the United States, approves the same.

FRANK ALLYN, *Judge.*

Entered in Journal " F," on page 440, on November 12th, 1888.

54 *Decree.*

THE CORPORATION OF THE CATHOLIC BISHOP OF NESQUALLY, Plaintiff,
vs.
JOHN GIBBON, T. M. ANDERSON, and R. T. YEATMAN and THE UNITED STATES OF AMERICA, Defendants. } No. 1879.

And now, on this 23rd day of November, A. D. 1888, this cause came on to be heard in open court on the issues joined and the evidence heretofore taken and filed in this cause on November the 12th, A. D. 1888, Whalley, Bronough and Northup appearing for the plaintiff, and W. H. White, Esq., appearing for the defendants, and after arguments by counsel, *and* the court, having duly considered the pleadings and proofs and arguments of respective counsel, now being fully advised in the premises, considers, adjudges, and decrees that this action be, and the same is, now dismissed, and it is considered, adjudged, and decreed that the defendants herein do have and recover of and from the plaintiff their costs and disbursements herein expended, to be taxed.

FRANK ALLYN, *Judge.*

Entered in Journal "F," on page 491, on the 23rd day of November, A. D. 1888.

55 *Order Allowing Notice of Appeal.*

THE CORPORATION OF THE CATHOLIC BISHOP OF NESQUALLY, in the Territory of Washington, Plaintiff,
vs.
JOHN GIBBON, T. M. ANDERSON, and THE UNITED STATES OF AMERICA, Defendants. } No. 1879.

Now, on this day, comes the plaintiff above named, by Whalley, Bronough, and Northup, his attorneys, and comes also the above-named defendants, by W. H. White, United States district attorney for Washington Territory and attorney for the defendants, before the undersigned judge of the above-entitled district court, at chambers, in vacation, on this the 28th day of November, A. D. 1888; and plaintiff, by his said attorneys, give- notice to defendants and to each of them, by their said attorneys, that the plaintiff appeals this cause to the supreme court of Washington Territory from the whole of the decree rendered and entered in said cause by said district court on the 23rd day of November, A. D. 1888, adjudging that the equity of the cause is against the plaintiff and in favor of defendants; that the complaint of plaintiff be dismissed, and that defendants recover of and from plaintiff the costs and disbursements of said action, which appeal is allowed; and it is hereby ordered
56 that this notice thereof be entered in the journal of said district court.

Done at chambers, in vacation, on this 28th day of November, A. D. 1888.

FRANK ALLYN, *Judge.*

Entered in Journal "F," on page 508, on Dec. 1st, 1888.

Order Substituting Lost Pleadings.

THE CORPORATION OF THE CATHOLIC BISHOP OF NESQUALLY, in the Territory of Washington, Plaintiff,
vs.
JOHN GIBBON, T. M. ANDERSON, R. T. YEATMAN, and THE UNITED STATES, Defendants. } No. 1879.

The original pleadings and papers in this cause having been lost or mislaid, so that the same cannot be found from which to make up the transcript herein on the appeal taken by plaintiffs to the supreme court of the Territory from the decree entered herein at the last term of the above-entitled court, it is therefore ordered, in accordance with the stipulation of the parties herein filed, that the copies of the pleadings and papers referred to in said stipulation be substituted in this cause and have the same force and effect as said original pleadings for all purposes.

57 Done at chambers, in vacation, on this 5th day of December, A. D. 1888.

FRANK ALLYN, *Judge.*

Received, filed, and entered in Journal "F," on page 509, this 14th day of December.

Cost Bill.

THE CORPORATION OF THE CATHOLIC BISHOP OF NESQUALLY, Plaintiff,
vs.
JOHN GIBBON, R. T. YEATMAN, and T. M. ANDERSON and THE UNITED STATES OF AMERICA, Defendants.

No. 1879.
Cost Bill.

Attorney's fee allowed by law	$15 00
Clerk's fees as per fee book	50 20
Sheriff's fees as per fee book	7 40
Marshal's fees as per returns	10 44
Referee fee for U. S.	190 25
Witnesses, residence, mileage both ways:	
Louisa Carter, Vancouver, 1 day	1 50
Wm. H. Dillon, Vancouver county, 8, 1 day	1 90
Wm. H. Gray, Astoria, 256, 2 days	15 80
58 John Stensgair, Vancouver Co., 10, 3 days	5 00
Charles J. Bird, Vancouver Co., 14, 2 days	3 90
Rufus Ingalls, 2 days, and milage from New York and return, 6,000 m	303 00
Napoleon McGelvore, Vancouver, 2 m., 7 days	10 00
Silos D. Maxon, Vancouver, 1 day, 2 m.	1 50
Floy Brook, Portland, 3 days, 36 m.	6 30
John F. Smith, 1 day	1 50
Peter W. Crawford, 1 day	1 50
Sarah J. Anderson, 2 days, 6 m.	3 80
George W. Force, 2 days, 2 m.	3 70
	$632 69

TERRITORY OF WASHINGTON, }
County of Clarke, }

W. H. White on oath says that the above cost bill is just and coorect and is the sums actually incurrer and expended in the defense of this action and the costs were necessary; that affiant is attorney for defendants.

W. H. WHITE.

Sworn to and subscribed before me this 23rd day of November, 1888.

[L. s.] W. BYRON DANIELS,
Notary Public in and for Clarke County, W. T.

Filed November 24th, 1888.
4—1345

59 *Notice of Appeal and Acceptance of Service of Same by Copy.*

THE CORPORATION OF THE CATHOLIC BISHOP OF NESQUALLY, Plaintiff,
vs.
JOHN GIBBON, T. M. ANDERSON, R. T. YEATMAN, and THE UNITED STATES, Defendants.
} No. 1879.

To the above-named defendants, John Gibbon, T. M. Anderson, R. T. Yeatman, and The United States, and W. H. White, United — district attorney for Washington Territory and attorney for said defendants:

You are hereby notified that the above-named plaintiff, The Corporation of the Catholic Bishop of Nesqually, in the Territory of Washington, hereby appeals to the supreme court of said Territory from the whole of the judgment and decree rendered and entered in the above-entitled cause on the 23rd day of November, A. D. 1888, by the above-named district court of the second judicial district of Washington Territory, holding terms at Vancouver, in and by which decree it was and is found — adjudged that the equity of said cause is with the defendants; that plaintiff is not entitled to recover in this action according to the prayer of the complaint, and that said complaint be dismissed, and that defendants recover
60 of plaintiff their costs and disbursements in said action, the plaintiff relying upon error in such findings and the rendition of said judgment and decree as a ground for reversal thereof.

November 27th, 1888.

WHALLEY, BRONOUGH AND NORTHUP,
Attorneys for Plaintiff.

TERRITORY OF WASHINGTON, *County of King,* } *ss:*

Due service of the within notice of appeal is hereby admitted in said county and Territory this 28th day of November, 1888, by receiving a copy thereof, duly certified to as such by E. C. Bronough, attorney for plaintiff.

W. H. WHITE,
Attorney for Defendants and U. S. Att'y for Wash. Ter.

Received and filed Dec. 7th, 1888.

A. REEVES AYRES, *Clerk,*
By W. H. JOHNSON, *Deputy.*

61 *Appeal Bond.*

THE CORPORATION OF THE CATHOLIC BISHOP OF NESQUALLY, in the Territory of Washington, Plaintiff,
vs.
JOHN GIBBON, T. M. ANDERSON, R. T. YEATMAN, and THE UNITED STATES, Defendants. } No. 1879.

Know all men by these presents that the Corporation of the Catholic Bishop of Nesqually, in the Territory of Washington, as principal, and Lewis de G. Schram and Patrick O'Keane, as sureties, are hereby held and firmly bound upto John Gibbon*bon*, T. M. Anderson, R. T. Yeatman, and the United States in the penal sum of one thousand dollars; for the payment whereof we, the said obligors, hereby bind ourselves, jointly and severally, by these presents.

Witness our hands and seals on this 7th day of December, A. D. 1888.

The condition of this obligation is such, however, and to the effect that whereas the said The Corporation of the Catholic Bishop of Nesqually, in the Territory of Washington, has given notice of appeal of said corporation to the supreme court of Washington Territory from the judgment and decree of the above-entitled district court of said Territory, rendered in the above-entitled cause in said court on the 23rd day of November, 1888: Now, if said ap-
62 pellant shall pay to said appellees all costs and damages that shall be adjudged against appellant on said appeal, and shall satisfy and perform the judgment appealed from in case it shall be affirmed, and any judgment or order which the supreme court may render or order to be rendered by the inferior court, then this obligation to be void; otherwise to remain in full force and effect.

THE CORPORATION OF THE CATHOLIC BISHOP OF NESQUALLY, IN THE TERRITORY OF WASHINGTON,
By AEGIDIEUS JUNGER. [SEAL.]
LEWIS DE G. SCHRAM. [SEAL.]
PATRICK O'KEANS. [SEAL.]

TERRITORY OF WASHINGTON, } ss:
County of Clarke, }

We, Lewis de G. Schram and Patrick O'Keane, being first duly sworn, depose and each for himself say: I am a resident of the county and Territory aforesaid, and that I am pecuniarily worth the sum of one thousand dollars over and above all my debts and liabilities.

LEWIS DE G. SCHRAM.
PATRICK O'KEANE.

Subscribed and sworn to before me this 7th day of December, A. D. 1888.

[L. S.]

A. REEVES AYRES, *Clerk*,
By W. H. JOHNSON, *Deputy*.

Approved and filed by the clerk of the second judicial district on the 7th day of December, 1888.

63 *Stipulation.*

THE CORPORATION OF THE CATHOLIC BISHOP OF NESQUALLY, in the Territory of Washington, Plaintiff,
vs.
JOHN GIBBON, T. M. ANDERSON, R. T. YEATMAN, and THE UNITED STATES, Defendants.

It appearing that the original papers and pleadings in this case have been lost or misplaced and cannot be found, it is hereby stipulated that the annexed copies of the hereunto attached — may be substituted for said originals and be of like force and effect in this cause as said originals, and that said originals were all duly verified before being filed.

WHALLEY, BRONOUGH & NORTHUP,
Attorneys for Plaintiff.
W. H. WHITE, *Attorney for Defendants.*

Received, endorsed, and filed Dec. 14th, 1888.
A. REEVES AYRES, *Clerk*,
By W. H. JOHNSON, *Deputy.*

64 TERRITORY OF WASHINGTON, *Second Judicial District,* } *ss:*

—, A. Reeves Ayres, clerk of the district court of the second judicial district of Washington Territory, do hereby certify that the foregoing is a full, true, and correct transcript of so much of the above-entitled cause as I am by statute required on appeal to transmit to the supreme court.

In testimony whereof I have hereunto set my hand and the seal of said district court this 15th day of December, A. D. 1888.

[SEAL.] A. REEVES, *Clerk*,
By W. H. JOHNSON, *Deputy.*

65 TERRITORY OF WASHINGTON, *County of Clarke,* } *ss:*

In the District Court of the Second Judicial District, Holding Terms at Vancouver.

THE CORPORATION OF THE CATHOLIC BISHOP OF NESQUALLY, Plaintiff,
vs.
JOHN GIBBON, T. M. ANDERSON, R. T. YEATMAN, and THE UNITED STATES OF AMERICA, Defendants. } 1879.

Greeting:

I, Frank Allyn, the judge of the aforesaid district court, do hereby certify that the above-entitled cause was tried, heard, and determined in said court the November term thereof, A. D. 1888, and

that on said trial witnesses were examined in open court for
66 the plaintiff and defendants, and that the evidence of all said witnesses as given on the trial *were*, by direction of the court, reduced to writing, and that the evidence of said witnesses so reduced to writing, together with the exhibits introduced by the respective parties, are hereto attached, and the said exhibits *is* the evidence and all the evidence introduced by the parties plaintiff and defendants on the trial of said cause and *is* the evidence and proofs upon which said action was tried, heard, and determined.

In testimony whereof I have hereunto set my hand this — day of ——, A. D. 188–.

——— ———,
Judge of the District Court of the Second Judicial District of Washington Territory.

TERRITORY OF WASHINGTON, } ss:
County of Clarke, }

I, A. Reeves Ayres, clerk of the district court in and for the second judicial district of W. T., holding terms at Vancouver, do
67 hereby certify that the evidence hereto attached is the evidence and all the evidence and exhibits introduced by the plaintiff and defendants in cause No. 1879, entitled—

THE CORPORATION OF THE CATHOLIC BISHOP OF NESQUALLY, Plaintiff,
vs.
JOHN GIBBON, T. M. ANDERSON, R. T. YEATMAN, and THE UNITED STATES OF AMERICA, Defendants, } 1879,

tried, heard, and determined in said court at the November term thereof, A. D. 1888, on the trial of said action.

In testimony whereof I have hereunto set my hand and the seal of said court this 27th day of Nov., A. D. 1888.

A. REEVES AYRES, *Clerk*,
[SEAL.] By W. H. JOHNSON, *Deputy*.

(Endorsement:) Filed Dec. 12th, 1888. Francis Henvey, clerk.

68 TERRITORY OF WASHINGTON, } ss:
County of Clarke, }

In the District Court of the Second Judicial District of Washington Territory, Holding Terms at Tacoma.

THE CORPORATION OF THE CATHOLIC BISHOP OF NESQUALLY, Plaintiff,
vs.
THE UNITED STATES, JOHN GIBBON, T. M. ANDERSON, R. T. YEATMAN, Defendants. } No. 1879.

I, A. Reeves Ayres, clerk district court of the second judicial district of Washington Territory, do hereby certify that the evidence

hereto attached, included in volumes numbers 1 to 15, inclusive, and Exhibit No. 1 to the deposition of Joseph Jost, being a book entitled "Oregon Missions and Travels Over the Rocky Mountains in 1845–'46," by Father P. J. De Smet, of the Society of Jesus, published by Edward Dunegan, New York, and Exhibit No. 1 to deposition of William H. Gray, being a book entitled a History of Oregon, 1792–1849, by W. H. Gray, of Astoria, &c., constitutes and is the evidence and all the evidence introduced on the trial of the above-entitled action in the above-entitled court, at the November term, A. D. 1888, and that all the evidence introduced on said
69 trial was wholly written testimony, contained in the volumes and exhibits above mentioned and hereto attached.

In testimony whereof I have hereunto set my hand and affixed the seal of said court this the 23rd day of November, A. D. 1888.

[SEAL.] A. REEVES AYRES, *Clerk.*

Stipulation.

It is hereby stipulated and agreed between the plaintiff and defendants that the evidence certified above by the clerk of said court is the evidence and all the evidence introduced on the trial in this action in the district court aforesaid; and it is further agreed and stipulated that the evidence in said bound volumes from 1 to 15, inclusive, and in said book, to wit, Exhibit No. 1 to the deposition of Joseph Joset and Exhibit No. 1 to the deposition of William H. Gray, shall be certified and sent up to the supreme court of Washington Territory in the original form, and that said supreme court shall hear this case on said testimony.

WHALLEY, BRONAUGH & NORTHRUP,
Attorneys for Plaintiff.
W. H. WHITE, *Attorney for Defendants.*

Vancouver, Nov. 23rd, 1888.

(Endorsed:) 603. Stipulation. Filed Dec. 12, 1889. Francis Henry, clerk. Filed June 12, 1890. A. Reeves Ayres, clerk.

70 In the Supreme Court for Washington Territory.

THE CORPORATION OF THE CATHOLIC BISHOP OF NESQUALLY, in the Territory of Washington, Plaintiff and Appellant,
vs.
JOHN GIBBON, R. T. YEATMAN, T. M. ANDERSON, and THE UNITED STATES, Defendants and Appellees.

It is stipulated and agreed that the attorney for the defendants and appellees above named shall have until the morning of Tuesday, the 8th day of January, A. D. 1889, within which to serve and file their answering brief in the above-styled cause in the above-styled court, and that plaintiff and appellant shall have fif-

teen days thereafter within which to serve and file his reply to defendants' said brief.

WHALLEY, BRONAUGH & NORTHROP,
Attorneys for Plaintiff and Appellant.
W. H. WHITE, *Att'y for Defendants and Appellees.*

(Endorsed:) Stipulation. Filed Jan. 7th, 1889. Francis Henry, clerk. Filed June 12, 1890. A. Reeves Ayres, clerk.

71 In the Supreme Court of the Territory of Washington, January Term, A. D. 1889.

THE CORPORATION OF THE CATHOLIC BISHOP OF NESQUALLY
vs.
JOHN GIBBON *et al.*

The complaint in this case claims title under the 1st section of the organic act of the Territory of Oregon, which reads as follows:

"That the title to the land, not exceeding six hundred and forty acres, now occupied as missionary stations among the Indian tribes of said Territory, together with the improvements thereon, be confirmed and established in the several religious societies to which said missionary stations respectively belong."

The wrongs complained of are that the military officers of the United States, in May, 1849, took possession of all the 640 acres claimed by the plaintiff under said act except such as was enclosed by the Hudson Bay Company, and afterwards, in October, 1853, the United States reserved for a military reservation 430 acres of the 640 acres.

It appears that of the 430 acres aforesaid that it has all been in possession of the United States since May, 1849, except the small portion thereof occupied by the church buildings and a tract of about five acres fenced by the plaintiff, and that shortly be-
72 fore this action was brought that defendant entered upon and tore down fences and cut down trees upon these five acres, which is the additional wrong complained of. With the exception of said entry on the five acres, there appears to have been no entry upon any of the land claimed since May, 1849. The action was brought and tried upon the equity side of the court without any jury trial having been claimed or waived in writing, as the statute provides.

The wrong complained of then and shown to exist (if it be a wrong) is:

1st. A claim upon the part of the plaintiff of title to all the land except the small protion upon which the church stands.

2nd. Trespass, threatened ouster from the five acres. As to wrong to the five acres, there was a complete remedy at law, in trespass, to try title, and perhaps an auxiliary remedy of injunction to stay trespass and waste during the pending of said action below; hence for this wrong a bill will not lie.

As to the claim of title to the portion exclusive of the five acres, it does not appear that defendant was ever in actual possession or

was ever ousted, any further than if plaintiff claims title, so does defendant, and defendant has been in the actual possession since 1849 and plaintiff not in possession.

73 The wrong, if any, is that the United States has claimed title and been in possession of the land, which is plaintiff's property. If this is true, the wrong is a legal wrong, and as to the proper remedy it is in the nature of ejectment under our statute.

Perhaps the plaintiff, as to the five acres, may waive his case of trespass, and under section — of our statute, which provides that one in possession of land may sue in equity any one claiming title thereto and have the title declared by the court, bring- this action. There are two wrongs complained of in this case as to the five acres.

1st, trespass; 2nd, claim of title of land possessed by plaintiff. So, on the latter claim we will proceed to examine the title and declare it. As to the other portion, we think that it is not before the court, for the defendant does not claim the land upon which the church buildings stand, nor has any trespass been committed or threatened thereto; and as to all the remainder, except the five acres, the plaintiff is not possessed, and hence has his action of ejectment only.

As to the title, there is no act of Congress except the one cited. No provision is made for any ministerial officer to survey or adjudicate it.

When Congress grants land not described in the act of grant the same is void for want of description until the same is located

74 by some person authorized by Congress to locate it. If a grant is made of land within certain specified boundaries, and no provision is made as to the precise boundaries of the land granted, it may be that the act itself empowers the grantee by implication to select the particular tract.

We take it that the grant of land in this instance is of the latter class.

It is to not exceed 640 acres of land, including improvements, now occupied as mission stations. Now occupied is a description of the land; but if more than 640 acres of land was thus occupied, then not exceeding 640 acres of that thus occupied was granted. This would appear to imply that the grantee might abandon all previously occupied except 640 acres and select the remainder out of any of the occupied land. This power is, however, again limited to include mission improvements. Then the power to select in the grantee was confined to land occupied as a mission station and to not exceed 640 acres, which must include the improvements. If in any case there was no land occupied as a mission station, then no land was granted, and hence no selection of 640 acres would be made. If less than 640 acres of land was so occupied, then 640 acres were not granted, but only the less quantity which was so occupied.

The words are of present grant, and no ministerial officer

75 was authorized to locate it nor pass upon it.

The question of title, then, is a judicial question exclusively, and the court will determine whether the land claimed is of

the description granted; and the question being judicial, the decisions of ministerial officers are not in the least binding, whether as to fact or law.

The opinions of ministarial officers on such a question ought to have no more effect than the opinion of a private lawyer, equally well learned, would be in a like case. Except by way of argument, all these decisions must be disregarded by the court. Is, then, the land claimed that described in the act of grant, to wit, land occupied as a mission station August 14th, 1848, or prior thereto?

What is the meaning of the words "occupied as a mission station among the Indian tribes?" The word "occupied" is synonymous to possessed. Possession of particular land cannot exist except by a claim to dominion thereover as evidenced by acts.

Now, on August 14th, 1848, and previous to that time the missionaries did not claim dominion over any of this land, as evidenced by their words or acts; but the Hudson Bay Company claimed and exercised exclusive dominion over it. To occupy as a mission station is to exercise dominion and control of it by the missionaries for missionary purposes. The mere going upon
76 the property possessed by another, by his permission, and there exercising religious rights is not to occupy as a mission station.

The Hudson Bay Company occupied this land exclusively until long after August 14th, 1848, and the missionaries, as well as this land, *was* under that company's dominion and control. As the brief well says, the missionaries could do nothing towards making a claim or exercising dominion over the land as a station or otherwise, because the Hudson Bay Company would not permit its possession to be infringed.

Then the land, not being occupied as a mission station, is not the land described in the act, and hence was not granted.

The grantees mentioned in the act are "the several religious societies to which the stations respectively belong." The grantee must, then, have on August 14th, 1848, been in existence. The present plaintiff claims to be an incorporation created long after the grant was made.

He was not at the time of the grant a religious society, and hence could not take as original grantee under the act. The plaintiff claims that the missionaries were sent by the bishop of Quebec. Then, was the bishop of Quebec the original grantee? It is not so claimed. The plaintiff does not claim that he has title himself, but says he is trustee for the Catholic church.

77 He does not claim that he is such trustree by virtue of any law of the United States or of this Territory, but by virtue only of the laws of this church. Certainly he cannot claim that he holds the legal title for the use of his church, for the legal title can exist only by virtue of positive secular law. A legal title cannot be created by the laws of any church. Suppose that this court should attempt to declare the title in the Roman Catholic church, it would be no better than a deed to that church. None but a legal person can take as grantee, and a church composed of millions of

members is not a natural nor an artificial person. The grant cannot go to the members, and the church is not a corporation.

What has been written refers to the words of the act only—the text itself. The subject-matter to which Congress meant to apply it is the history of Oregon and its occupation.

We know that the government of Great Britain and the United States under a treaty were each attempting to occupy Oregon by their respective citizens, each striving to have its citizens occupy, to the exclusion of the citizens of the other nation, so far as this could be done without breach of the peace. As an instrumentality to effect this purpose, the Hudson Bay Co. acted for Great Britain, and through this company British subjects were imported, who acted under the dominion of that company. To offset this British
78 occupation, the United States encouraged an American fur company to act in the same country. The American company was ousted by the Hudson Bay Company.

Incorporated American missionary societies were then licensed by the United States to act in peopling the country with their missionaries. The missionaries established missionary stations, formed a nucleus, and induced immigration.

There was much excitement as to which nation should prevail. Congress introduced bills donating to each settler 640 acres of land, which, though they did not pass, encouraged immigration. The Americans became the most numerous. They established a provisional government, making provisions to the effect that each individual should have 640 acres of land, and missionaries, as pioneers, more than that. By this prevailing American settlement the United States acquired the territory by treaty. This treaty stipulated that the possessory rights of the Hudson Bay Company and other British subjects should be respected.

The first act to reward the pioneer was the act of 1848, and it cut down the missionaries to 640 acres and granted that. The United States then by purchase extinguished the possession of the Hudson Bay Company and other British companies.

79 In 1850 it passed the donation act, granting to each married American 640 acres and to each single man 320 acres, still recognizing the provisional government action.

The possessory right to this very land was purchased by the United States from the Hudson Bay Company to extinguish British interest. The act of 1848 applies exactly to societies who sent missionaries capable as incorporated bodies to take a grant, capable as a society of sending missionaries, and whose missionaries had established stations among the Indian tribes and claimed more than 640 acres of land and dominion over it; the history of the American mission occupancy, the terms of the provisional government, and the antagonism of *of* British subjects which had been overcome by American pioneers.

The words of the act exactly apply to the American mission societies and to their occupation, and are not applicable to the conditions and situation and anti-American occupation of British subjects acting under the Hudson Bay Company.

The word society applied not to a bishop or a church at large, but to those incorporated societies who, as a person, could send missionaries and could take land as granted.

The whole legislation of Congress shows that it intended to grant land to American subjects only, and to extinguish all claims
80 of British subjects. The subject-matter to which the act applies, the history of the country, the statutes and treaties, all show it was the intent of Congress to reward the American pioneer for opposing and overcoming British occupation.

We conclude, therefore, that the act of August, 1848, did not grant or intend to grant land to British subjects nor to foreigners, nor to those acting under the Hudson Bay Company, and hence in opposition to American interest.

We think the so-called missionaries were of this latter class, and no grant was intended to be made to them.

Let the decree be affirmed.

WM. G. LANGFORD,
Asso. Justice.

We concur in so far as to affirm the judgment of the court below.

THOMAS BURKE,
Chief Justice.
L. B. NASH,
Asso. Justice.

(Endorsed:) Opinion. Filed June 12th, 1890. A. Reeves Ayres, clerk.

81 Be it remembered that — a regular session of the supreme court of the State of Washington, begun and holden at Olympia on the 1st Monday of January, A. D. 1890, the same being the 6th day of said month, there being present Honorable Thomas J. Anders, chief justice, and Honorables Elmon Scott, Theodore L. Stiles, and John P. Hoyt, associates judges, and Sol. Smith, clerk, and Honoroble W. C. Jones, attorney general, among other the following was had and done, to wit: On Tuesday, January 14th, 1890, the following order was made and entered in the following-entitled cause:

THE CORPORATION OF THE CATHOLIC BISHOP OF NESQUALLY, Appellant,
vs.
JOHN GIBBON, T. M. ANDERSON, R. T. YEATMAN, AND THE UNITED STATES, Appellees.

Now, on this day, — the plaintiff in this cause, by Whalley, Bronaugh & Northorp, plaintiff's attorneys, and files and presents plaintiff's motion and petition praying an order of this court transferring this case to the circuit court of the United States for the district of Washington, under the provisions of section 23 of the act of Congress admitting the State of Washington into the Union. The court having heard and duly considered said motion and petition,

and it appearing therefrom and from the pleadings of the parties, as set forth in the transcript in this case on file in this court,
82 that the United States is a party to this cause, and that both parties claim the rights set forth in their pleadings respectively under the laws of the United States, and that this is a cause whereof said circuit court of the United States would have had jurisdiction had such court existed at the time of the commencement of this action, it is therefore ordered that this case be, and the same is hereby, transferred to the circuit court of the United States for the district of Washington, and that the original files and records and proceedings in this case, including all the evidence remaining on file in this court, be transferred by the clerk of this court, duly certified by him, to said United States circuit court for the district of Washington, together with a copy of all entries in this cause which appear on the records of the supreme court of Washington Territory and of this court in this cause.

And be it remembered that at a regular term of the supreme court of Washington Territory, begun and holden at Olympia on the first Monday of January, 1889, there being present Honorable Thomas Burke, chief justice, and Honorables Wm. G. Langford, L. B. Nash, and Frank Allyn, associate justices; Wm. H. White, U. S. attorney; J. B. Metcalf, attorney general; T. J. Hamilton, U. S. marshal, and Francis Henry, clerk, among other the following was had and done, to wit, "on Tuesday, January 8th, 1889:

83 THE CORPORATION OF THE CATHOLIC BISHOP OF NESQUALLY, Appellant,
vs.
JOHN GIBBON *et als.*, Appellee-. } No. 603.

Upon the application of Wm. H. White, Esq., U. S. attorney, this cause is assigned for January 21st, 1889."

Also, on Wednesday, January 30th, 1889, the following was had and done, to wit:

"THE CORPORATION OF THE CATHOLIC BISHOP OF NESQUALLY, Appellant,
vs.
JOHN GIBBON *et al.* and THE UNITED STATES, Appellee-.

The arguments of counsel in this cause were continued to the hour of adjournment."

And on Thursday, January 31st, the following was had and done, to wit:

"THE CORPORATION OF THE CATHOLIC BISHOP OF NESQUALLY, Appellant,
vs.
JOHN GIBBON, THE UNITED STATES, *et als.*, Appellee-.

This cause, having been argued by counsel, was submitted and taken under advisement by the court."

84 And on Thursday, March 7th, 1889, the following was had and done, to wit:

"THE CORPORATION OF THE CATHOLIC BISHOP OF NESQUALLY, Appellant, *vs.* JOHN GIBBON *et als.* } No. 603. Judgment.

This cause having been heretofore submitted to the court upon the transcript of the record of the district court of the second judicial district of Washington Territory, holding terms at Vancouver, and upon the argument of counsel, and the court having fully considered the same and being fully advised in the premises, and having filed its opinion in writing, it is now, on this 7th day of March, A. D. 1889, on motion of W. H. White, Esq., of counsel for defendants, considered, adjudged, and decreed that the judgment and decree of the said district court be, and the same is hereby, affirmed with costs, and the said defendants, John Gibbon, T. M. Anderson, R. T. Yeatman, and the United States aforesaid, have and recover of and from the said appellant, The Corporation of the Catholic Bishop of Nesqually, the costs of this action, and allowed at — dollars, and that execution issue therefor. It is further ordered that this cause be remitted to the said district court for further proceedings in accordance with the opinion herein filed."

And also, on the same day, the following was done and had, to wit:

85 THE CATHOLIC BISHOP OF NESQUALLY, Appellant, *vs.* JOHN GIBBON *et als.* } No. 603.

The petition for a rehearing filed by the appellant herein having been considered by the court, it is ordered by the court that the same be, and hereby is, granted.

STATE OF WASHINGTON, *Thurston County,* } *ss:*

I, Sol. Smith, clerk of the supreme court of the State of Washington, do hereby certify that the foregoing is a true copy and transcript of the record and of the whole thereof in the above-entitled cause in the supreme court of Washington Territory, and also in the supreme court of the State of Washington; and I do further certify that the accompanying papers are the original files and the whole thereof, including the evidence, heretofore filed in this court and in the supreme court of Washington Territory.

In testimony whereof I have hereunto set my hand and affixed the seal of the supreme court of the State of Washington, at Olympia, on this 25th day of April, A. D. 1890.

[SEAL.] SOL. SMITH,
Clerk of the Supreme Court of the State of Washington.

Tenth. Because the court erred in holding that the benefits of said granting act were intended to be confined to missionary or religious societies of American origin only or whose missionaries were American citizens.

Eleventh. Because said decision and judgement of the court in this cause is not sustained by the law applicable thereto.

Twelfth. Because said decision and judgement is contrary to the evidence in this case.

Thirteenth. Because that, by reason of the limited time of three hours on each side to which the court, because of pressure of business, was forced to restrict counsel in the argument and presentations of the case for consideration by the court, the law was but partially presented, and no time whatever remained for reading the evidence to the court, and none of the members of the court have since had time or opportunity to further inquire into the law or evidence, and the court was therefore at the time of its said decision and judgment not sufficiently advised in regard to the same.

91 Fourteenth. Because the value of the property in controversy, the number and importance of the questions of law involved, and the very voluminous character of the evidence in this case demand that further time and opportunity should be afforded plaintiff and appellant for more fully presenting and the court for more maturely considering the merits of the case before the rights of plaintiff in the premises should be finally and conclusively passed upon and determined by the court, as matter of justice to the court itself and to counsel and to the parties litigant.

All of which is respectfully submitted as good and sufficient cause for granting the prayer of this the plaintiff's motion and petition for a rehearing in this cause.

WHALLEY, BRONAUGH & NORTHROP,
Attorneys for Plaintiff and Appellant.

(Endorsed:) Motion and petition of plaintiff and appellant for a rehearing of this cause. Filed March 7th, 1889. Francis Henry, clerk. Granted. Filed June 12th, 1890. A. Reeves Ayres, clerk.

92 In the Supreme Court of the State of Washington.

THE CORPORATION OF THE CATHOLIC BISHOP OF NESQUALLY, Plaintiff,
vs.
JOHN GIBBON, T. M. ANDERSON, R. T. YEATMAN, AND THE UNITED STATES, Defendants.

Now comes the plaintiff in this action, by attorney, and presents to the court this his motion and petition praying an order of the court transferring this case into the circuit court of the United States for the district of Washington, upon the ground that under the provision of section 23 of the act of Congress admitting the State of Washington into the Union, approved February 22, 1889, this is a case whereof said circuit court of the United States might have had jurisdiction had such court existed at the time of

the commencement of this case, under the provision of section 1 of the act of March 3, 1875, for the removal of causes from State courts into the courts of the United States, as a case where the matter in dispute, as is shown by the pleadings contained in the transcript herein, exceeds, exclusive of —, the sum or value of two thousand dollars, and arises under the laws of the United States, it appearing from said pleadings and transcript that the plaintiff claims title to
93 the land in controversy in this cause under the confirmatory grant contained in section 1 of the act of Congress entitled "An act to establish the territorial government of Oregon," approved August 14th, 1848, and that plaintiff is the owner of and entitled to the possession of the land described in the pleadings in this case under said act of Congress, and the defendants claim the right to hold possession of said land as a military reservation, under the laws of the United States and the action of the executive department of the Government of the United States. Wherefore plaintiff moves the court that all the files, records, and proceedings in this cause be transferred to said circuit court of the United States, to be proceeded with therein in due course of law.

WHALLEY, BRONAUGH & NORTHROP,
Attorneys for Plaintiff.

(Endorsed:) Motion and petition to transfer to U. S. circuit court for the district of Washington.

Filed the 14th day of January, 1890. Sol. Smith, clerk of the superior court.

Filed June 12th, 1890. A. Reeves Ayres, clerk.

94 Be it remembered that in the appearance docket, at the records of the supreme court of the State of Washington, among others appears the following, to wit:

THE CORPORATION OF THE CATHOLIC BISHOP OF NESQUALLY, Appellant,
vs.
JOHN GIBBON *et al.* and THE UNITED STATES, Defendants and Respondents.

Appeal, Second District, Vancouver.

Whalley, Bronaugh & Northrop. 603. Wm. H. White. Dec. 20, 1888, transcript filed. Dec. 7, appellant's brief filed. Jan'y 7, 1889, stipulation filed. Jan'y 11th, 1889, plaintiff's brief filed; motion for rehearing filed; rehearing ordered. January 14, 1890, petition to remove cause to U. S. circuit court of the district of Washington granted. June 6, papers forwarded per express to R. M. Hopkins, Seattle, clerk U. S. court.

I, Sol. Smith, clerk of the supreme court of the State of Washington, do hereby certify that the foregoing is a correct copy of all the entries made upon the appearance docket in the above-entitled cause, of said court, as the same now remains of record in my office.

In testimony whereof I have hereunto set my hand and affixed the seal of said court this 6th day of June, 1890.

[SEAL.] SOL. SMITH,
Clerk of the Supreme Court of the State of Washington.

Filed June 10th, 1890, in the circuit court.

A. REEVES AYRES, *Clerk*,
By R. M. HOPKINS, *Deputy*.

95 Be it remembered that in the Fee Book of the records of the supreme court of the State of Washington, in the cause of the—

THE CORPORATION OF THE CATHOLIC BISHOP OF NESQUALLY, Appellant,
vs.
JOHN GIBBON *et als.* and THE UNITED STATES, Appellees. } No. 603.

Appears the following entries, to wit:

"No. 603. The Corporation of the Cath. Bis'p of Nesqually *vs.* John Gibbon *et al.* and The United States. Whalley, Bronaugh & Northrop, attorney- for plaintiff in error. Wm. H. White, attorney for defendant in error.

Dec. 20, 1888.	Filing transcript	10
" " "	Docketing	25
" " "	Appearance	25
" 7th.	Filing 10 copies of appellant's brief	$1 00
Jan'y —.	Proceedings on trial	50
Jan'y 14, 1890.	Filing petition to remove cause	10
	Entering order	50
		$2 70

I, Sol. Smith, clerk of the supreme court of the State of Washington, do hereby certify that the above and foregoing is a true and correct copy of the entries and of all of them of the Fee Book of the supreme court of the State of Washington in the above-entitled cause, as the same appears of record in my office.

In testimony whereof I have hereunto set my hand and affixed the seal of said court this 6th day of June, 1890.

[SEAL.] SOL. SMITH,
Clerk of the Supreme Court of the State of Wash.

Filed June 10, 1890, in the U. S. circuit court.

A. REEVES AYERS, *Clerk*,
By R. M. HOPKINS, *Deputy*.

96 *Missionary Stations in Oregon.*

United States Circuit Court, District of Washington, Western Division.

THE CORPORATION OF THE CATHOLIC BISHOP OF NESQUALLY, Plaintiff,
vs.
JOHN GIBBON, T. M. ANDERSON, and R. T. YEATMAN, Defendants,
and
THE UNITED STATES OF AMERICA, Intervenor.

Opinion. C. H. Hanford, Judge.

97 United States Circuit Court, Western Division, District of Washington.

THE CORPORATION OF THE CATHOLIC BISHOP OF NESQUALLY, Plaintiff,
vs.
JOHN GIBBON, T. M. ANDERSON, and R. T. YEATMAN, Defendants,
and
THE UNITED STATES OF AMERICA, Intervenor.

Opinion.

1. Organic act of Oregon—Public land—Missionary stations.—The proviso in the organic act of Oregon Territory confirming titles to the land not exceeding 640 acres then occupied as missionary stations among the Indian tribes in the religious societies to which said missionary stations respectively belonged must be construed as a grant of only the specific lands which were at the date of the act so occupied exclusively and not in subserviency to another's right.
2. Same—Grant construed—Possession.—Land in possession of the Hudson's Bay Company at the date of said act and to which said company had a legal possessory right for a definite period was not granted by said act, although priests of the
98 Roman Catholic Church, by permission of said company, then had and maintained a missionary station thereon.

Syllabus by the court.

Whalley, Bronaugh & Northrup, attorneys for plaintiff; P. H. Winston, U. S. attorney; P. C. Sullivan, assistant U. S. attorney, and W. H. White, attorneys for defendants and intervenor.

HANFORD, *J.:*

The plaintiff, in behalf of the Roman Catholic Church, which he represents, seeks by this suit primarily to try the title to a tract of four hundred and thirty acres of land in possession of the United States Government and occupied as a military reservation at Vancouver, in this State, and to obtain a declaratory judgment in his

In testimony whereof I have hereunto set my hand and affixed the seal of said court this 6th day of June, 1890.

[SEAL.] SOL. SMITH,
Clerk of the Supreme Court of the State of Washington.

Filed June 10th, 1890, in the circuit court.

A. REEVES AYRES, *Clerk*,
By R. M. HOPKINS, *Deputy*.

95 Be it remembered that in the Fee Book of the records of the supreme court of the State of Washington, in the cause of the—

THE CORPORATION OF THE CATHOLIC BISHOP OF NESQUALLY, Appellant,
vs.
JOHN GIBBON *et als.* and THE UNITED STATES, Appellees. } No. 603.

Appears the following entries, to wit:

"No. 603. The Corporation of the Cath. Bis'p of Nesqually *vs.* John Gibbon *et al.* and The United States. Whalley, Bronaugh & Northrop, attorney- for plaintiff in error. Wm. H. White, attorney for defendant in error.

Dec. 20, 1888.	Filing transcript		10
" " "	Docketing		25
" " "	Appearance		25
" 7th.	Filing 10 copies of appellant's brief		$1 00
Jan'y —.	Proceedings on trial		50
Jan'y 14, 1890.	Filing petition to remove cause		10
	Entering order		50
			$2 70

I, Sol. Smith, clerk of the supreme court of the State of Washington, do hereby certify that the above and foregoing is a true and correct copy of the entries and of all of them of the Fee Book of the supreme court of the State of Washington in the above-entitled cause, as the same appears of record in my office.

In testimony whereof I have hereunto set my hand and affixed the seal of said court this 6th day of June, 1890.

[SEAL.] SOL. SMITH,
Clerk of the Supreme Court of the State of Wash.

Filed June 10, 1890, in the U. S. circuit court.

A. REEVES AYERS, *Clerk*,
By R. M. HOPKINS, *Deputy*.

96 *Missionary Stations in Oregon.*

United States Circuit Court, District of Washington, Western Division.

THE CORPORATION OF THE CATHOLIC BISHOP OF NESQUALLY, Plaintiff,
vs.
JOHN GIBBON, T. M. ANDERSON, and R. T. YEATMAN, Defendants,
and
THE UNITED STATES OF AMERICA, Intervenor.

Opinion. C. H. Hanford, Judge.

97 United States Circuit Court, Western Division, District of Washington.

THE CORPORATION OF THE CATHOLIC BISHOP OF NESQUALLY, Plaintiff,
vs.
JOHN GIBBON, T. M. ANDERSON, and R. T. YEATMAN, Defendants,
and
THE UNITED STATES OF AMERICA, Intervenor.

Opinion.

1. Organic act of Oregon—Public land—Missionary stations.—The proviso in the organic act of Oregon Territory confirming titles to the land not exceeding 640 acres then occupied as missionary stations among the Indian tribes in the religious societies to which said missionary stations respectively belonged must be construed as a grant of only the specific lands which were at the date of the act so occupied exclusively and not in subserviency to another's right.
2. Same—Grant construed—Possession.—Land in possession of the Hudson's Bay Company at the date of said act and to which said company had a legal possessory right for a definite period was not granted by said act, although priests of the
98 Roman Catholic Church, by permission of said company, then had and maintained a missionary station thereon.

Syllabus by the court.

Whalley, Bronaugh & Northrup, attorneys for plaintiff; P. H. Winston, U. S. attorney; P. C. Sullivan, assistant U. S. attorney, and W. H. White, attorneys for defendants and intervenor.

HANFORD, *J.:*

The plaintiff, in behalf of the Roman Catholic Church, which he represents, seeks by this suit primarily to try the title to a tract of four hundred and thirty acres of land in possession of the United States Government and occupied as a military reservation at Vancouver, in this State, and to obtain a declaratory judgment in his

favor as the equitable owner, in trust for the church, of said property, and incidentally to obtain an injunction to prevent the commission of waste upon the premises.

I wish to have it understood that in considering the merits of the plaintiff's claim I have not overlooked the very important question as to the power of the court in this suit to grant any part of the relief prayed for. In the case of The United States *vs.* Jones, 131 U. S., p. 1, decided since this case was commenced, the Supreme Court held in effect that a person having an unquestionable right to a conveyance of title to land from the Government and wrongfully deprived of it cannot maintain a suit to compel such a conveyance. I think that under existing laws a disputed claim of a mere right to have a conveyance of title from the United States cannot consistently with that decision be litigated in the courts in any form of proceeding; and as this case does not come within any known exception to the general rule that an injunction to restrain
99 waste by a party in possession and claiming title adversely to the plaintiff will not be granted, if it had been submitted to me on a demurrer to the complaint, I should probably have held that the plaintiff could not obtain either form of relief. A preliminary question as to the legal capacity of the plaintiff to maintain the suit has also been raised by counsel, but as much time and labor has been spent in taking testimony and in the argument on the merits I have determined to pass by these questions and rest my decision on the facts and the law affecting the validity of the claim of the Catholic Church to this land. I do so in order that on appeal the whole case can be at once taken to the Supreme Court.

The land claimed by plaintiff was, with other land adjoining and surrounding it, occupied by the Hudson's Bay Company as a site for a fort, trading post, and farm, and was the metropolitan establishment of that company on the Pacific coast from about the year 1825 until it was occupied by United States troops, in May, 1849. In so occupying the land and in carrying on its trading business the company was operating under a charter and license from the sovereign of England. The license to trade with the Indians west of the Rocky mountains, including the right to occupy said premises, was granted to the company in 1838, and was for a definite period of twenty-one years, and expired May 30, 1859. In the year 1838 two priests of the Roman Catholic Church came to Vancouver, under commission from the bishop of Quebec, to perform the duties of priests generally and to serve as missionaries among the Indian inhabitants of the region. Their superior, the bishop of Quebec, instructed them to establish their principal residence at some point on the Cowlitz river, and they did so, taking possession of land for the purpose which was theretofore unoccupied except by the Indians.

They also established a missionary station upon unoccupied
100 land at a place now know- as St. Paul, in the Willamette valley. At Vancouver they also established a missionary station, with the consent of the Hudson's Bay Company, upon the land now claimed, which, as before stated, was then occupied by

that company, and maintained a station there continuously until and subsequent to August 14, 1848.

During these years the first two who came were reinforced by other priests, and except during one or two short intervals one of the priests resided at Vancouver, and there held religious services and administered the sacraments according to the rites of his church among such of the officers and servants of the company as were of the Catholic faith and their families and such Indians as were sojourning there or came for religious instruction. In consideration of the services of the priests among its servants and their families the Hudson's Bay Company contributed a regular stipend of $500 per annum for support of the mission and furnished the resident priest a house to live in and board or rations, and also provided a building for use as a chapel.

In the treaty of 1846 between the United States and Great Britain the Hudson's Bay Company's possessory right to the land for the unexpired part of said period of twenty-one years was recognized and guaranteed by the following clause in the third article:

"In the future appropriation of the territory south of the forty-ninth parallel of north latitude, as provided in the first article of this treaty, the possessory rights of the Hudson's Bay Company and of all British subjects who may be already in the occupation of the land or other property lawfully acquired within the said territory shall be respected."

The law upon which the plaintiff's claim to the land is founded is contained in a proviso to the first section of the organic act
101 of Oregon Territory, entitled "An act to establish the territorial government of Oregon," approved August 14, 1848, Ninth United States Statutes, 323, and reads as follows:

"That the title to the land, not exceeding 640 acres, now occupied as missionary stations among the Indian tribes in said Territory, together with the improvements thereon, be confirmed and established in the several religious societies to which said missionary stations respectively belong."

In May, 1849, Major Hathaway, of the United States Army, with a company of soldiers, arrived at Vancouver, and he at once rented buildings for quarters from the Hudson's Bay Company, including part of the building used as the Catholic church, and, with the consent of said company, established a military camp upon the land now in dispute. A camp and garrison for the United States troops has been continuously, from that time to the present, maintained there, and except a small portion thereof all of said land has been occupied and used for that purpose. In October, 1850, Colonel Loring, U. S. A., the commanding officer of the United States troops at Vancouver, issued a proclamation creating a military reservation for use of the Government of the United States four miles square, with defined boundaries, including this land now claimed by the Catholic Church, and declaring said reservation to be subject only to the temporary posses-ory rights of the Hudson's Bay Company, guaranteed by treaty, and also giving public notice that all improvements within the limits of the reservation would be appraised

and payment therefor recommended. May 16, 1853, the Catholic Church for the first time asserted its claim to this land by filing a notice thereof with the surveyor general of Oregon Territory, in which notice the boundaries of the six hundred and forty acres claimed were attempted to be defined. On the 28th day of the same month and again on December 31, 1853, amended notices
102 were filed for the purpose of changing the boundaries. December 8, 1854, the commanding officer at Vancouver, Colonel Bonneville, pursuant to instructions from the Secretary of War and in conformity to an act of Congress approved February 14, 1853, limiting the extent of military reservations to six hundred and forty acres, by a general order reduced the reservation to that extent, and caused the same to be surveyed and the new boundaries to be marked, and about the same time caused the buildings and the improvements on the reservation, including the Catholic church, to be appraised by a board of military officers.

After the extinguishment of the Hudson's Bay Company's possessory right to the land, by limitation of time, in 1859, upon application made in behalf of the Catholic Church, the Commissioner of the General Land Office directed the surveyor general of Washington Territory to survey the land claimed as a missionary station; thereupon protests against the allowance of the mission claim and divers adverse claims to the same land were filed, and the Commissioner of the General Land Office then ordered the surveyor general to investigate the matter fully and make a special report, which was done, that officer assuming the power to adjudicate and determine the questions, both of fact and law, involved; and he decided in favor of the validity of the mission claim. This decision was reversed by the Commissioner of the General Land Office. An appeal was then taken to the Secretary of the Interior, and the final decision of the matter, in the Department of the Interior, was rendered by the Secretary March 11, 1872, allowing the claim and authorizing the issuance of a patent for a small piece of land less than half an acre in extent, upon which the building used as a church was situated, and rejecting it as to every other part of the land claimed. On the 15th of January, 1878, the President approved a final survey and plat of the military reservation, and con-
103 firmed the previous action of the War Department, and declared said reservation to be duly set apart for military purposes. The Government has purchased from the Hudson's Bay Company and paid it for all the buildings and improvements of a permanent character which said company erected or made upon the land, including the Catholic church, and prior to the commencement of this suit everything necessary to constitute this land a Government reserve for military purposes was formally and completely done.

In the argument counsel for the plaintiff has insisted that the decision of the Secretary of the Interior is conclusive as to the facts in the case. I think, however, that, as Congress has not conferred any authority upon the department to take proofs or decide any question concerning the grants made for missionary stations by the statute

above cited, the court is not bound by said decision, and it must find the facts, in an independent way, from the testimony given upon the trial and the exhibits introduced.

It is assumed in the brief and argument of counsel for the plaintiff that the question of chief importance in the case is whether there was a missionary station upon this land on the 14th day of August, 1848; and the contention is that if a missionary station existed there on that day, then, by the said act of Congress, a right to the full quantity of six hundred and forty acres passed to and became vested in the religious society which the plaintiff represents, subject only to the encumbrance of the Hudson Bay Company's temporary right of possession. This assumption is based upon the supposition that Congress intended by this act to make a grant of part of the public domain as a mere gift or contribution from the nation to the cause of religion, or, if not as a gift purely, then as a grant in consideration of the good done by missionaries among the Indian tribes of Oregon. I am convinced, however, that the purpose of the
104 act was not to make a gift nor to reward meritorious efforts in the missionary service, but rather to recognize the just claims of a few people who had incidentally, in connection with missionary labor, by their toil created property, whereby the material interests of the nation were affected and greatly benefited, and to protect their natural rights to the property so created by confirming to them the legal title thereto.

It is to be presumed that in legislating for Oregon Congress was influenced by existing facts which were then generally well known. It was a fact well known at the time of the passage of this statute that missionary stations had been established and were then maintained among the Indian tribes at several places in Oregon Territory by different denominations of Christians; that said missionary stations occupied land upon which they had erected dwelling-houses, school-houses, churches, barns, and mills, and in connection therewith gardens and fields were cultivated; all of which were necessary to the success of the missions and for the support and comfort of the missionaries and their families. The missionaries were mostly loyal citizens of the United States—they were the pioneers of immigration. They aided in establishing the provisional government of Oregon, and they were helpers in securing this country for this nation. Failure or neglect on the part of the Government to make good the titles of the first American inhabitants of the country to the land made valuable by their labor would have been base ingratitude. To do what Congress did—that is, confirm to the several societies the titles to the land occupied by their respective missionary stations, with the improvements thereon made by their servants, the missionaries—was simply justice.

In this view of the matter the appropriateness of the somewhat peculiar phraseology of the statute becomes apparent. The
105 form of conveying title by confirming, instead of granting the same, harmonizes with the idea of a pre-existing equitable right and an already acquired possession. The word "occupied"—a synonym for possessed, covered, filled—is an appropriate

word to use for the purpose of identifying land in actual possession and use. The seemingly vague and loose expression, "religious societies," applicable as well to Jewish, Mormon, or Buddhist as to Christian organizations, which in the act serves to designate the grantees, can be very well understood, and becomes definite when it is considered that at that time the missionary stations were prominent points in Oregon Territory. Their existence and occupancy of land was so well known that the taking of proof to establish these facts must have been regarded by Congress as a work of supererogation. The entire frame of the act clearly indicates that Congress intended to grant specific lands to certain well-known institutions. These considerations make it necessary to give the word "occupied" its full force and meaning, and excludes the idea that the occupancy of a tenant or guest or any occupancy in subserviency to the right of another could suffice to support a claim to a grant under this statute.

As the Catholic missionaries did not improve the land claimed in this suit, nor occupy it except by permission from and in subordination to the Hudson's Bay Company, it is impossible for me to conclude that Congress intended to or did give the valuable buildings and improvements on this land which that company owned to the church—a conclusion not to be escaped from if the land covered by those improvements was granted. The Supreme Court of the United States, in the case of Missionary Society *vs.* Dalles City, 107 United States, 336, construed this act as a grant of only the land actually occupied as a missionary station among the Indian tribes.

Another view that may be taken of the case is this: If the act is not to be regarded as a grant of specific land, capable of
106 & 107 being identified by the description given in the act, then it must be a floating grant, and a grantee under it could acquire no vested right to any particular tract until a selection had been made and the boundaries of the granted premises ascertained and established. No steps tending toward this end were taken until after the land now claimed had been appropriated and duly set apart for governmental use. It was then too late. The rights of the United States to this land as a military reservation are older, and for that reason, if for no other, superior in equity to the claim of the plaintiff.

Findings may be prepared in accordance with this opinion, and a decree will be entered in favor of the defendants.

(Signed) C. H. HANFORD, *Judge.*

108 In the Circuit Court of the United States, Ninth Circuit, District of Washington.

THE CORPORATION OF THE CATHOLIC BISHOP OF NESQUALLY, in the Territory of Washington, Plaintiff and Appellant,
vs.
JOHN GIBBON, T. M. ANDERSON, R. T. YEATMAN, and THE UNITED STATES, Defendants and Appellants.

Decree.

Now, on this 3rd day of November, 1890, this cause having been heretofore argued by counsel at this term, and thereupon, upon consideration thereof, it is ordered, adjudged, and decreed that the bill of the said complainant, The Corporation of the Catholic Bishop of Nesqually, in the Territory of Washington, be, and the same is hereby, dismissed; that the said defendants recover of and from the said complainant their costs and disbursements of suit, taxed at $665 and $\frac{9}{100}$, and that the clerk of this court issue proper process of the collection of such costs and disbursements.

C. H. HANFORD,
Judge Presiding.

(Endorsed:) Decree. Filed Nov. 3rd, 1890. A. Reeves Ayres, clerk.

109 In the Circuit Court of the United States for the District of Washington.

THE CORPORATION OF THE CATHOLIC BISHOP OF NESQUALLY, in Washington Territory, Plaintiff,
vs.
JOHN GIBBON, T. M. ANDERSON, R. T. YEATMAN, and THE UNITED STATES, Defendants.

Now, on this — day of ——, comes the above-named plaintiff, by Whalley, Bronaugh & Northrop, its attorneys, in open court and while the court is in session, and moves the court to allow to the said plaintiff an appeal to the Supreme Court of the United States from the judgment and decree of this court in this cause rendered on the — day of ——.

WHALLEY, BRONAUGH & NORTHROP,
Attorneys for Appellant.

(Endorsed:) Motion for allowance of appeal to U. S. Supreme Court. Filed Nov. 3rd, 1890. A. Reeves Ayres, clerk.

word to use for the purpose of identifying land in actual possession and use. The seemingly vague and loose expression, "religious societies," applicable as well to Jewish, Mormon, or Buddhist as to Christian organizations, which in the act serves to designate the grantees, can be very well understood, and becomes definite when it is considered that at that time the missionary stations were prominent points in Oregon Territory. Their existence and occupancy of land was so well known that the taking of proof to establish these facts must have been regarded by Congress as a work of supererogation. The entire frame of the act clearly indicates that Congress intended to grant specific lands to certain well-known institutions. These considerations make it necessary to give the word "occupied" its full force and meaning, and excludes the idea that the occupancy of a tenant or guest or any occupancy in subserviency to the right of another could suffice to support a claim to a grant under this statute.

As the Catholic missionaries did not improve the land claimed in this suit, nor occupy it except by permission from and in subordination to the Hudson's Bay Company, it is impossible for me to conclude that Congress intended to or did give the valuable buildings and improvements on this land which that company owned to the church—a conclusion not to be escaped from if the land covered by those improvements was granted. The Supreme Court of the United States, in the case of Missionary Society *vs.* Dalles City, 107 United States, 336, construed this act as a grant of only the land actually occupied as a missionary station among the Indian tribes.

Another view that may be taken of the case is this: If the act is not to be regarded as a grant of specific land, capable of being identified by the description given in the act, then it must be a floating grant, and a grantee under it could acquire no vested right to any particular tract until a selection had been made and the boundaries of the granted premises ascertained and established. No steps tending toward this end were taken until after the land now claimed had been appropriated and duly set apart for governmental use. It was then too late. The rights of the United States to this land as a military reservation are older, and for that reason, if for no other, superior in equity to the claim of the plaintiff.

106 & 107

Findings may be prepared in accordance with this opinion, and a decree will be entered in favor of the defendants.

(Signed) C. H. HANFORD, *Judge.*

108 In the Circuit Court of the United States, Ninth Circuit, District of Washington.

THE CORPORATION OF THE CATHOLIC BISHOP OF NESQUALLY, in the Territory of Washington, Plaintiff and Appellant,
vs.
JOHN GIBBON, T. M. ANDERSON, R. T. YEATMAN, and THE UNITED STATES, Defendants and Appellants.

Decree.

Now, on this 3rd day of November, 1890, this cause having been heretofore argued by counsel at this term, and thereupon, upon consideration thereof, it is ordered, adjudged, and decreed that the bill of the said complainant, The Corporation of the Catholic Bishop of Nesqually, in the Territory of Washington, be, and the same is hereby, dismissed; that the said defendants recover of and from the said complainant their costs and disbursements of suit, taxed at $665 and $\frac{9}{100}$, and that the clerk of this court issue proper process of the collection of such costs and disbursements.

C. H. HANFORD,
Judge Presiding.

(Endorsed:) Decree. Filed Nov. 3rd, 1890. A. Reeves Ayres, clerk.

109 In the Circuit Court of the United States for the District of Washington.

THE CORPORATION OF THE CATHOLIC BISHOP OF NESQUALLY, in Washington Territory, Plaintiff,
vs.
JOHN GIBBON, T. M. ANDERSON, R. T. YEATMAN, and THE UNITED STATES, Defendants.

Now, on this — day of ——, comes the above-named plaintiff, by Whalley, Bronaugh & Northrop, its attorneys, in open court and while the court is in session, and moves the court to allow to the said plaintiff an appeal to the Supreme Court of the United States from the judgment and decree of this court in this cause rendered on the — day of ——.

WHALLEY, BRONAUGH & NORTHROP,
Attorneys for Appellant.

(Endorsed:) Motion for allowance of appeal to U. S. Supreme Court. Filed Nov. 3rd, 1890. A. Reeves Ayres, clerk.

110 In the Circuit Court of the United States for the District of Washington.

THE CORPORATION OF THE CATHOLIC BISHOP OF NESQUALLY, in the Territory of Washington, Complainant,
vs.
JOHN GIBBON, T. M. ANDERSON, R. T. YEATMAN, and THE UNITED STATES, Defendants.

Now, on this day, comes the complainant in the above-entitled cause and in open court moves the court to allow to the complainant an appeal to the Supreme Court of the United States from the final judgment and decree of this court in this cause, on this day rendered and granted, dismissing the bill of complaint and adjudging costs to the defendants, and that the court fix the amount of the bond to be given by appellant on said appeal.

WHALLEY, BRONAUGH & NORTHROP,
Solicitors for Complainant.

Filed Nov. 3rd, 1890.

A. REEVES AYRES, *Clerk.*

111 THE CORPORATION OF THE CATHOLIC BISHOP OF NESQUALLY, in Washington Territory, Complainant,
vs.
JOHN GIBBON, T. M. ANDERSON, R. T. YEATMAN, and THE UNITED STATES, Defendants.

Now, on this day, comes the complainant in this cause, by Mr. E. C. Bronaugh, solicitor for complainant, in open court and files and presents to the court the motion of complainant to be allowed an appeal to the Supreme Court of the United States from the decree of this court, on this day rendered, dismissing the bill of complaint herein and adjudging costs to the defendants; which motion is granted and said appeal is allowed in open court, and the amount of the appeal bond to be given by the appellant is fixed at the sum of one thouand dollars.

C. H. HANFORD,
Judge Presiding.

Endorsed: Order allowing appeal. Filed Nov. 3rd, 1890. A. Reeves Ayres, clerk.

112 In the Circuit Court of the United States for the District of Washington.

THE CORPORATION OF THE CATHOLIC BISHOP OF NESQUALLY, in Washington Territory, Complainant,
vs.
JOHN GIBBON, T. M. ANDERSON, R. T. YEATMAN, and THE UNITED STATES, Defendants.

Know all men by these presents that The Corporation of the Catholic Bishop of Nesqually, in Washington Territory, as principal

and Louis De G. Schram and David Wall, as sureties, are hereby jointly and severally held and bound unto John Gibbon, T. M. Anderson, R. T. Yeatman, and the United States, and unto whomsoever it may concern, in the sum of one thousand dollars; for the payment whereof, well and truly to be made, we, the said obligors, are by these presents firmly bound as aforesaid.

The condition of this obligation is such, however, that whereas, on motion of the said corporation, the plaintiff in the above-entitled suit, made in open court on Monday, the 3rd day of November, A. D. 1890, an order of said circuit court of the United States for the district of Washington was duly made and entered allowing said
113 plaintiff an appeal to the Supreme Court of the United States from the decree of said circuit court, on said day rendered and entered, dismissing the bill of complaint of plaintiff in said suit and adjudging costs to said defendants, the obligees herein, and the amount for which security should be given by said appellant on said appeal was by the said order of court fixed at the sum of one thousand dollars:

Now, therefore, the condition of this obligation is such that if said appellant shall prosecute its said appeal to effect and if said appellant fail to make its plea good it shall answer all costs, then this obligation shall be void; otherwise to be and remain in full force and effect.

In witness whereof the said corporation has caused these presents to be signed and its corporate seal to be thereunto affixed by Aegedius Junger, the Catholic bishop of Nesqually and the person constituting said corporation sole, and said sureties have hereunto set their respective hands and seals on this 22nd day of November, A. D. 1890.

THE CORPORATION OF THE CATHOLIC BISHOP OF NESQUALLY, IN WASHINGTON TERRITORY. [SEAL.]
By AEGEDIUS JUNGER. [SEAL.]
LOUIS DE G. SCHRAM. [SEAL.]
DAVID WALL. [SEAL.]

In presence of—

JOHN O'KEANE.
JAMES J. O'KEANE.

114 STATE OF WASHINGTON, } ss:
County of Clarke, }

We, Louis De G. Schram and David Wall, being duly sworn, say, each for himself and not for the other, that I am one of the sureties in the foregoing obligation and a resident householder of the State of Washington, and that I am worth the sum of one thousand dollars over and above all my debts and liabilities, exclusive of property exempt from execution.

____ ____.
____ ____.

Subscribed and sworn to before me this 22nd day of November, A. D. 1890.

[SEAL.] JOHN O'KEANE,
Notary Public for the State of Washington,
Residing at Vancouver.

Approved by me this 28th day of November, 1890.

C. H. HANFORD, *Judge.*

(Endorsed:) Appeal on bond. Filed November 28th, 1890. A. Reeves Ayres, clerk.

115 In the Circuit Court of the United States for the District of Washington.

THE CORPORATION OF THE CATHOLIC BISHOP OF NESQUALLY, Complainant,
vs.
JOHN GIBBON, T. M. ANDERSON, R. T. YEATMAN, and THE UNITED STATES, Defendants.

Now, on this day, comes the plaintiff and appellant in this suit, by Mr. E. C. Bronaugh, his solicitor, and come also the defendants and appellees, by Mr. P. H. Winston, U. S. attorney for the district of Washington, their solicitor, and present to the court their stipulation herein, filed on the — day of November, A. D. 1890, and move the court for an order in regard to the evidence to be included in the transcript to be forwarded to the Supreme Court in accordance with the provisions of said stipulation. Whereupon, the court approving of the agreements contained in said stipulation, it is accordingly ordered that in all cases where duplicate copies of letters, paper-writings, and documents have been filed in the course of the evidence as reported by W. Byron Daniels, the referee, the clerk of this court shall make but one copy of such letter, paper-writing, or document in transcribing said evidence for the Supreme Court,
116 and shall designate the same by the word "duplicated" on the margin of said copy at the commencement thereof, and that as to such of said writings and documents as are written in the French language and followed by a translation thereof into the English language the clerk copy into said transcript said translation only and designate such copy *of* the word "translation" on the margin at the beginning thereof, and that the two original printed books—one book entitled "Oregon Missions and Travels over the Rocky Mountains in 1845," by Father P. J. De Smet, and the other book entitled "A History of Oregon, 1792–1849," by William H. Gray—be both forwarded by the clerk, with the copy of the evidence, to the Supreme Court of the United States, and that all original maps and plats found in the original evidence, as reported by said referee, be detached therefrom and attached in the like place in said transcript of evidence to be sent up from this court to the Supreme Court on this appeal.

Done in open court November 19th, 1890.

C. H. HANFORD, *Judge.*

(Endorsed:) Order. Filed Nov. 20, 1890. A. Reeves Ayres, clerk.

In the Circuit Court of the United States for the District of Washington.

THE CORPORATION OF THE CATHOLIC BISHOP OF NESQUALLY, in Washington Territory, Plaintiff,
vs.
JOHN GIBBON, T. M. ANDERSON, R. T. YEATMAN, and THE UNITED STATES, Defendants.

Whereas the above-named plaintiff was allowed by the above-entitled court, in open court, on November 3rd, 1890, an appeal to the Supreme Court of the United States from the decree of said circuit court, on that day rendered in the above-entitled cause, dismissing said plaintiff's bill of complaint and adjudging costs to the defendants; and whereas among the documentary evidence obtained from the General Land Office of the United States and filed by one or other of the parties before the referee appointed to take the evidence in said cause there are a number of letters, paper-writings, and documents, of which two or more copies were inadvertently filed and received in evidence, thus encumbering the record of said evidence with superfluous and duplicate copies of such letters, paper-writings, and documents; and whereas among the evidence so filed there are certain copies of other writings obtained from the General Land Office, which are in the French language, but followed by translations thereof into the English language:

118 Therefore it is hereby stipulated by and between the parties to this suit, by their respective solicitors, that the clerk of this court, in transcribing the evidence in this cause to be sent to the Supreme Court on said appeal, shall make but one copy only of said duplicated letters, writings, and documents to be included in said transcript of evidence, and shall write on the margin of such copy, at the commencement thereof, the word "duplicated," and either party shall be entitled to rely upon the evidence contained in such copy in the argument of said cause in the Supreme Court, and that the English translation only of said writings which are in the French language shall be transcribed by said clerk as a part of said evidence, and the French writing shall be omitted from said transcript of evidence; and it is further stipulated that by leave of the court the printed book filed in evidence by plaintiff as Exhibit 1 to deposition of Joseph Joset, and entitled "Oregon Missions and Travels over the Rocky Mountains in 1845–'46," by Father P. J. De Smet, and the printed book filed in evidence by defendants as Exhibit 1 to deposition of William H. Gray, the author thereof, and entitled "A History of Oregon, 1792–1849," shall neither be copied by said clerk, but that each and both of said original books

119 shall be transmitted by said clerk accompanying said transcript of evidence to the Supreme Court, and shall be considered and treated as a part of the said transcript of evidence on the hearing of this cause in the Supreme Court, and also that by leave of the court all maps and plats filed in evidence instead of

being copied by the clerk may be detached by him from the evidence as filed in this court and attached in the proper places to the transcript of evidence to be transmitted by him to the Supreme Court as a part of said transcript of evidence.

WHALLEY, BRONAUGH & NORTHROP,
Solicitors for Complainant.

PATRICK H. WINSTON,
United States Attorney for the District of Washington and Solicitor for Defendants.

(Endorsed:) Stipulation. Filed Nov. 17th, 1890. A. Reeves Ayres, clerk.

120 THE CORPORATION OF THE CATHOLIC BISHOP OF NESQUALLY, in Washington Territory, Plaintiff,
vs.
JOHN GIBBON, T. M. ANDERSON, R. T. YEATMAN, and THE UNITED STATES OF AMERICA, Defendants.

Referee's Report.

Vol. 1.

121 In the District Court of the Second Judicial District of Washington Territory, Holding Terms at Vancouver for the Counties of Clarke and Skamania, in said Territory.

THE CORPORATION OF THE CATHOLIC BISHOP OF NESQUALLY, in the Territory of Washington, Plaintiff,
vs.
JOHN GIBBON, T. M. ANDERSON, R. T. YEATON, and THE UNITED STATES, Defendants.

The report of W. Byron Daniels, referee, appointed by the honorable court by its order made on the 9th day of April, 1887, as referee to take and report the evidence offered by the parties respectively in the above-entitled action, respectfully showeth that on this first day of August, 1887, at Vancouver, Washington Territory, appeared before me the plaintiff, by E. C. Bronough, its attorney, and the defendants, by Hon. W. H. White, U. S. district attorney for Washington Territory; whereupon the plaintiff offered in evidence certain documentary evidence, certified by Hon. W. A. J. Sparks, Commissioner of the General Land Office of the United States, under the seal of his office, on April 2nd, 1887, and which in this report is marked "Plaintiff's Documentary Evidence A;" which documents are offered by the plaintiff in the order in which they are named in said certificate.

122 To the introduction of which the defendants object for the following reasons: Because it does not appear that the records offered in evidence are the entire records and files of the General Land Office of the United States in the matter of the St. James Catholic Mission claim. Defendants also object to so much of said record as includes the letter of one T. Mesplie, agent of the R. C.

church, and letter dated October 6th, 1883, from Curtis and Burdett, because the same are irrelevant and incompetent and immaterial, and the defendants further object to the whole of said "Documentary Evidence A" because the same is irrelevant and immaterial.

Which objections being noted, the said evidence is received subject to said objections and is marked by me "Plaintiff's Documentary Evidence A."

W. BYRON DANIELS, *Referee.*

Plaintiff next offers in evidence certain other and further documentary evidence certified by Hon. Wm. A. J. Sparks, Commissioner of the General Land Office, under the seal of his office, under date of June 14th, 1887, except so much of said documentary evidence last mentioned as is contained in the letter of Peter Skeen Ogden, addressed to Hon. John B. Preston, surveyor general of Oregon, at Oregon city, and dated Fort Vancouver, May 23rd, 1853, and letter of John B. Preston, of January 23rd, 1855, Oregon city, and addressed to the register of the land office, Olympia, W. T., which portions of said evidence were not ordered from the department by plaintiff or its attorneys, but are so incorporated with the
123 portion of said last-mentioned documentary evidence which is offered by plaintiff as to be inseparable therefrom without destroying the sufficiency and validity of said certificate.

Defendants object to the introduction of the same because irrelevant, incompetent, and immaterial; and, second, they object to the introduction of the same with the omission of the letters of Peter Skeen Ogden and of John B. Preston, because to receive the same in evidence with said letters omitted contradicts the certificate of the Commissioner of the General Land Office; and, third, the defendants objects to the introduction of the whole of said last offered documentary evidence, and so far as the same is offered, because the same does not purport to be copies of all the papers relating to the St. James Catholic Mission claim as the same appears on file in the office of the Commissioner of the General Land Office.

Which last-mentioned documentary evidence is received and filed by me as a part of this report, subject to said objections, and is marked by me "Plaintiff's Documentary Evidence B."

W. BYRON DANIEL*D*, *Referee.*

Plaintiff next offers in evidence certain other and further documentary evidence certified by Hon. W. A. J. Sparks, under the seal of his office, on June 4th, 1887, except that portion of said documentary evidence last mentioned which is contained in a copy of the same letter of Peter Skeen Ogden of May 23rd, 1853, addressed to Hon. John B. Preston, surveyor general of Oregon, at Oregon city, and in a copy of the same letter of John B. Preston, dated Oregon city, January 23rd, 1855, and addressed to the register of the
121 land office at Olympia, W. T., above referred to, as being incorporated without authority from plaintiff as part of plaintiff's documentary evidence, and which letters are not offered by plaintiff, but for the reasons above stated cannot be separated from

the documents as certified without impairing the validity of said certificate, but the remaining portion of which last-mentioned documentary evidence, excepting said two letters, is offered by plaintiff, to be marked "Plaintiff's Documentary Evidence C."

Defendants object to the introduction of the same for the reasons set forth in the objections to receiving plaintiff's documentary evidence, heretofore noted in this report as "A and B."

Which last-mentioned documentary evidence is received and filed by me as a part of this report subject to said objections, and is marked by me "Plaintiff's Documentary Evidence C."

W. BYRON DANIELS, *Referee.*

At this point it is verbally consented, agreed, and stipulated before the referee and in his presence, by the aforesaid attorneys of the respective parties, that each separate and several paper and document included in the said documentary evidence offered by plaintiff and marked "A, B, and C" as aforesaid, shall, for the purpose of saving time and labor, be considered and taken as offered and objected to, separately and severally, in the order in which they so appear and are certified from the office of the Commissioner of the General Land Office, excepting said two letters not offered by plaintiff, which objections as made shall reach and apply to each of said documents separately as offered.

125 Plaintiff next offers in evidence, as a part of its documentary evidence, a certified copy of the opinion of Hon. W. H. Smith, Assistant Attorney General of the United States, dated Department of Justice, Washington, D. C., January 29th, 1872, and addresses to Hon. C. Delano, Secretary of the Interior, and certified on March 31st, 1887, by Hon. H. L. Muldrow, acting Secretary of the Interior, under the seal of his office, to be a true copy of the original paper on file in said department, which is offered by plaintiff, to be marked "Plaintiff's Documentary Evidence D."

To which defendants object as incompetent, irrelevant, and immaterial.

And the same — thereupon received by me and filed as a part of this my report, marked "Plaintiff's Documentary Evidence D."

W. BYRON DANIELS, *Referee.*

Subject to said objection, plaintiff next offers in evidence, as a part of its documentary evidence in this cause, a copy of a letter of B. R. Cowan, acting Secretary, dated Department of the Interior, Washington, D. C., March 11th, 1872, addressed to Hon. Willis Drummond, Commissioner of the General Land Office, and certified by H. L. Muldrow, acting Secretary of the Interior, under the seal of his office, March 31st, 1887, to be a true copy of said letter, which plaintiff offers in evidence, to be marked "Plaintiff's Documentary Evidence E;" to which defendants object as incompetent, irrelevant, and immaterial, and the same — thereupon by me received and filed, subject to said objection, as a part of my report, and marked "Plaintiff's Documentary Evidence E."

W. BYRON DANIELS, *Referee.*

126 Plaintiff next offers in evidence, as a part of its documentary evidence in this cause, a copy of a letter addressed by Hon. George H. Williams, but incorrectly written George W. Williams, Attorney General of the United States, dated Department of Justice, Washington, March 2nd, 1872, and addressed to Hon. Columbus Delano, Secretary of the Interior, which is certified by H. L. Muldrow, acting Secretary of the Interior, under the seal of his office, on March 31st, 1887, to be a true copy of said letter, which is offered by plaintiff, to be marked "Plaintiff's Documentary Evidence F;" to which defendants object as incompetent, irrelevant, and immaterial, and the same — thereupon by me received and filed, subject to said objection, as a part of my report, and marked "Plaintiff's Documentary Evidence F."

W. BYRON DANIELS, *Referee.*

Plaintiff next offers in evidence copy of the survey of township two north, of range one east, of the Willamette meridian, certified by W. S. Austin, register of the land office at Vancouver, on January 19th, 1887, to be a true copy of the official survey of said township on file in his office; which document or plat is marked Exhibit "A" to the complaint of plaintiff in this cause and filed with the original complaint on February 5th, 1887.

Plaintiff next introduces as a witness on its behalf JOSEPH ST. GERMAIN, who, being first duly sworn, testifies as follows:

127 1 Ques. State your name and age, place of residence, and occupation.

Ans. Joseph St. Germain; sixty-one years old; I reside on the Cowlitz prairie, and I am by occupation a farmer.

2 Ques. How long have you resided in what is now known as Lewis county?

Ans. Since the year 1841.

3 Ques. When did you first come to Vancouver, Washington Territory?

Ans. I passed here in 1841.

4 Ques. Did you stop here at that time?

Ans. Yes.

5 Ques. How long did you stop here at that time?

Ans. Three or four days—maybe a week; stopped here for our horses to get a little rest.

6 Ques. State whether at that time there was any Catholic priest living or residing here at Vancouver.

Ans. There was.

7 Ques. What was his name?

Ans. First one I saw here was Father De Mers.

8 Ques. Did you attend church service here at that time?

Ans. Yes; I went to church at the fort.

9 Ques. At what place or in what building were those church services held?

Ans. In one room in the big building on the inside of the fort, on the north side, where the boss was.

10 Ques. What furniture, if any, was inside of that room when the church services were held?

Ans. Pews and altar.

128 11 Ques. Did you see any other Catholic priest than De Mers here at that time, in 1841?

Ans. Yes; Father Nobile.

12 Ques. Were you over here again, at Vancouver, after 1841?

Ans. Yes; I came most every year.

13 Ques. Did you see any other priest here besides Father De Mers and Father Nobile?

Ans. Yes; I saw Father Devos.

14 Ques. When did you first see Father Devos here?

Ans. I can't tell the year; I think before 1848.

15 Ques. What time in 1848 were you here?

Ans. I came in February.

16 Ques. Did you attend church in February, 1848?

Ans. Yes.

17 Ques. At what place and in what building was that church service held?

Ans. Outside the fort, in a church.

18 Ques. How far from the fort was the church situated?

Ans. I think about 500 feet.

19 Ques. In what direction from the fort?

Ans. The door was on the river; there was a road from the river to the church.

20 Ques. Do you mean the door of the church fronted the river?

Ans. Yes, sir.

21 Ques. When did you first see that church building?

Ans. Well, I think in 1845. I came here in the fall of

129 1845. I stayed two or three days and saw them framing the sills for a foundation.

22 Ques. How did you know it was the foundation of the church?

Ans. There was a boss named John Findley; he was a carpenter on the building; he got hurt; and Douglass was chief of the company, and he came there and said, Why don't you work? and he said, I can't; I got hurt on my back; and Dougals said, You will have to work; and you did not work for the company, but for the priest, and the priest will have to pay for the work on the building.

Defendants object to the conversation between Douglas and Findley and moves to strike out the same from his evidence.

23 Ques. State whether or not any house was erected on that foundation; and, if so, what house.

Ans. They built a church there.

24 Ques. Were you ever in that church after it was built?

Ans. Yes.

25 Ques. In what year were you first there?

Ans. In the year 1848.

26 Ques. In what month?

Ans. In February.

27 Ques. Was anything done in the church at that time; if so, what?

Ans. I went to the mass which was held there at that time.

28 Ques. Was there any Catholic priest present; if so, who?

Ans. Yes; Father Devoes.

29 Ques. Was there any school-house at Vancouver at that time?

130 Ans. Yes; I saw a house; they told me it was a school-house. I did not see any children around.

30 Ques. How often did you visit Vancouver between the year 1841 and the summer of 1848?

Ans. I came every year, and sometimes I came twice a year.

31 Ques. What did you come here for?

Ans. There was one store here and a grist-mill; had to come here to get groceries and flour, and had to go by here in going to Oregon.

32 Ques. How often did you attend church services at Vancouver from 1841 to the summer of 1848?

Ans. I don't know. I just passed here. Sometime- I came in the morning and went back in the afternoon.

33 Ques. Were you ever at church here more than the two times you have have already stated during that time?

Ans. Only two times.

34 Ques. State whether you saw any Indians at Vancouver upon the occasions you were here.

Ans. The last time I went here I saw Indians in church at mass. I could not tell how many; a few.

35 Ques. I did not mean how many Indians you saw in the church at any time, but at Vancouver.

Ans. There was lots of Indians here at Vancouver.

36 Ques. State whether there was any field or enclosure at or near the fort or church at any time between 1841 and 1848.

131 Ans. Around the fort they had an orchard and a little field. The little field was down the river from the fort; the orchard was back of the fort.

37 Ques. About how many acres was in the field and orchard?

Ans. I can't tell exactly; I think four or five acres.

38 Ques. Did the Hudson's Bay Company have any other field or enclosure at or near Vancouver; and, if so, where were they located?

Ans. I did not see any. I saw a field near a lake below, and *and* they told me they had one back on the prairie.

39 Ques. State, if you know, how the priests you saw at Vancouver were supported.

Ans. The people that was here, who worked for the Hudson Bay Company, — some five dollars, some twenty, and some fifteen. A man who was a farmer here, Charles Proulx, told me he gave twenty dollars.

40 Ques. Did you yourself ever give anything to assist in their support?

Ans. I had to pay every year some myself.

41 Ques. What did you pay?

Ans. I paid twelve dollars ($12.00).

42 Ques. Do you know of anybody else who paid, outside of the Hudson Bay Company?

Ans. Yes; the Catholics who were working for the Hudson Bay Company, the Frenchmen—I mean every one had to pay.

43 Ques. Did you ever work for the Hudson Bay Company?

Ans. Yes; little jobs, but never hired.

44 Ques. Did any one else pay the priest anything, to your
132 knowledge, besides the men working for the Hudson Bay Company—I mean between 1841 and the summer of 1848?

Ans. Yes; the farmers. I don't here, but in Cowlitz.

48 Ques. What priests visited or resided at the Cowlitz mission between 1841 and the summer of 1848?

Objected to by defendants' counsel as irrelevant and immaterial.

Ans. The first one was Father De Murs, the same one who was here; Father Bolduc, Father Langlois, Father Pretot.

46 Ques. Did you ever see Father Langlois, Father Bolduc, or Father Pretot at Vancouver?

Ans. Yes; Father Langlois came with me here and went to Oregon. I came here with Father Bolduc, who went to Oregon and came back again.

47 Ques. In what year was that?

Ans. I don't recollect exactly; it was before 1847.

48 Ques. What was Father Bolduc traveling about for at that time?

Ans. He went to see the father who was in Oregon—the bishop.

49 Ques. Did you ever know the Indians to give any of these priests anything?

Ans. I can't tell.

50 Ques. Did you ever hear the priests teaching the Indians?

Ans. Yes; catechism.

51 Ques. In what language?

Ans. Jargon.

52 Ques. Did you ever talk with any Indian chief at Vancouver?

Ans. Yes.

133 53 Ques. What did you talk about and what did he say to you?

Objected to by defendants' counsel as irrelevant and immaterial.

Ans. He talked about the people who was around here.

54 Ques. Did he talk with you any about religion?

Objected to by defendants' counsel because leading, irrelevant and immaterial.

Ans. Yes.

55 Ques. What did he say?

Objected to as above.

Ans. He said he liked religion and was a Catholic, and he heard him say a prayer in his language.

56 Ques. How do you know he said a prayer?

Ans. He told me in *jorgan* the priest showed it to him; it was a prayer.

57 Ques. Did you ever hear the Indians sing any at Vancouver?

Ans. No; not at Vancouver. I heard Indian chief sing with his brother at Cowlitz.

58 Ques. What did he sing?

Ans. I don't know; I could hardly talk *jorgan* then. I didn't understand what he sang.

59 Ques. Did you ever travel much with any of the priests whom you have named between 1841 and 1848?

Ans. I come three or four times—once with Father Bolduc and two times with Father Langlois; came here and went to Oregon.

60 Ques. How many men were in the company when you traveled with them?

134 Ans. Three or four—sometimes five, all together.

61 Ques. Where did you sleep at nights?

Ans. Outside; there was no houses; sometimes in tent.

62 Ques. Were the priests afraid of the Indians, or afraid to travel around with them or among them in that way?

Ans. I did not take notice.

63 Ques. Where were you born?

Ans. On Red river, in Manitoba, among the British.

64 Ques. What is your native language?

Ans. French.

65 Ques. Do you understand the English language well?

Ans. No.

Cross-examination by defendants' counsel:

66 Ques. When did you first learn to talk English?

Ans. I tried in 1847.

67 Ques. Was that the first time?

Ans. Well, I heard it before then, but I never tried to say a word.

68 Ques. Your father and mother were French Canadians, were they?

Ans. Yes; my mother's father was an American. My mother talked French.

69 Ques. How did you happen to come here in 1841?

Ans. To engage in farming.

70 Ques. Who were you going to farm for?

Ans. For the Hudson Bay Company.

135 71 Ques. Did they hire you to come?

Ans. The governor of the Hudson Bay Company made a bargain — Red river to take Cowlitz farm, and when they meet us on the road and the old man, our father, and the governor told us we could take the Cowlitz farm or be free to take our own farm.

72 Ques. By the governor do you mean the governor of the Hudson Bay Company?

Ans. Yes.

73 Ques. What was his name?

Ans. I forgot his name; they called him Baptist. He was the governor who lived in Canada.

74 Ques. Did you farm for the company?

Ans. No.

75 Ques. Did you hunt and trap wild animals?

Ans. Yes; I trapped for my own self?

76 Ques. Who did you sell your skins to, the pelts?

Ans. I sell at Cowlitz to some merchant.

77 Ques. Did you sell to the Hudson Bay Company?

Ans. No.

78 Ques. Did you trap any in 1841 to 1848?

Ans. No, sir.

79 Ques. What was it you did do?

Ans. I farmed.

80 Ques. Who did you sell the stuff to that you raised on the farm between 1841 and 1847?

Ans. To the Hudson Bay Company.

136 81 Ques. Where at?

Ans. At the Cowlitz. I sold it to them there and they took it in boats from there to Vancouver.

82 Ques. Where did the Hudson Bay Company have its headquarters.

Ans. Here at Vancouver.

83 Ques. What buildings did they have at Vancouver?

Ans. I just take notice to one house—the big house; the boss was in it. He had a store, warehouse, blacksmith shop. I saw other little houses. I don't know what kind or how many.

84 Ques. Who lived in the little houses?

Ans. I don't know what they were for.

85 Ques. How many men were working for the Hudson Bay Company?

Ans. They told me there was 150 Frenchmen, some Englishmen, some Kanakas, some Scotch.

86 Ques. You attended and heard preaching here in 1841, did you?

Ans. Yes; in the fall.

87 Ques. In a room in the big house? Do you mean that was the same house the store was in?

Ans. No; the store was a little farther off.

88 Ques. Was there a stockade here?

Ans. Yes; the big house was inside the fort.

89 Ques. Whose fort was that?

Ans. The Hudson Bay Company.

90 Ques. Who was the priest you heard the first time?

Ans. Father De Murs.

91 Ques. How many persons were there in the room?

Ans. I did not take notice. It was a little room.

137 92 Ques. Whose house was that little room in?

Ans. It was in the fort.

93 Ques. Were they white people—Englishmen or Frenchmen or Indians?

Ans. I saw the Frenchmen, one an Englishman—the boss of the company.

94 Ques. What was that Englishman's name?

Ans. John McLaughlin.

95 Ques. Was John McLaughlin a member of the Catholic church?

Ans. Yes; I think he was a Catholic—he came from a Catholic family.

96 Ques. Do you mean Dr. John McLaughlin?

Ans. Yes.

97 Ques. What was the name of the carpenter of the Hudson Bay Company from 1841 to 1847?

Ans. Charles Baron and John Findley.

98 Ques. That was the same John Findley you saw making a frame for the church?

Ans. Yes; the same one.

99 Ques. You came here most every year after 1841? What did you come here for or to do?

Ans. Yes; to trade; to get our groceries; to take wheat here to grind it.

100 Ques. Where did they grind the wheat?

Ans. Three miles above here they had a grist-mill and saw-mill.

101 Ques. Who owned the grist-mill and saw-mill?

Ans. The Hudson Bay Company.

102 Ques. Where did the Hudson Bay Company receive your wheat?

138 Ans. They received it in Cowlitz.

103 Ques. How did they take it to the mill?

Ans. In boats. They had six battons. They took it down the Cowlitz, and they had a little vessel which would hold a thousand bushels. That is what they said it would hold.

104 Ques. Did they have any wharf or landing place at Vancouver?

Ans. I never saw a wharf.

105 Ques. Did they have a landing place here?

Ans. Yes.

106 Ques. Did they unload their boats at that landing place?

Ans. I never see.

107 Ques. How near to the landing place was the warehouse?

Ans. I can't tell the distance; it was in the fort. I call the warehouse the place where they put the provisions.

108 Ques. Did they have any horses or oxen or wagon?

Ans. They have a cart and oxen and horses.

109 Ques. Was there a road leading from their warehouse to the fort?

Ans. Yes; and I seen them hauling flour from the river to the fort.

110 Ques. How much flour?

Ans. I don't know. They had two or three teams hauling.

111 Ques. Where was the flour made?

Ans. It come from their grist-mill up the river.

112 Ques. Did you see them hauling lumber?

Ans. No; I did not.

113 Ques. How many store-keepers were there?

139 Ans. I can't tell.

114 Ques. You attended the sacrifice of the mass at the church the first time in what year?

Ans. In February, 1848.

115 Ques. You are a member of the church?

Ans. Yes.

116 Ques. Where do you live?

Ans. In the Cowlitz prairie.

117 Ques. How far is that from here?

Ans. I can't tell. They call it 80 miles. I can't tell.

118 Ques. How do you come from the Cowlitz here?

Ans. I come on the railroad. I got on the cars at Winlock, and from there to Portland, and from there to Vancouver on a steamboat.

119 Ques. How many days did it take you to travel from the Cowlitz here in 1841?

Ans. Three days.

120 Ques. How did you travel?

Ans. In a canoe.

121 Ques. Have you talked with anybody before to-day about what you was going to testify?

Ans. I had no business to talk. I heard of it. The first time I heard of it I heard them talk. The bishop sent word for me to come here—Bishop Junger.

122 Ques. When did he send you word?

Ans. He sent me a letter to the Cowlitz.

140 123 Ques. And you came on that letter?

Ans, Yes; he sent a letter to Father Canten, and he told me the bishop he like to see me here.

124 Ques. Did you talk with the bishop or with the bishop's lawyer, Mr. Bronough, before to-day?

Ans. No.

125 Ques. You talked with them before you were put on the witness stand, did you?

Ans. Yes; I went to see them.

126 Ques. How large was the fort?

Ans. I don't know.

127 Ques. What was it made of?

Ans. The fort houses were made of square timber. The pickets around were 18 feet high. It was square.

128 Ques. Tell us about how long it was and how high.

Ans. About 200 feet long, more or less. It was square.

129 Ques. Any buildings outside the fort?

Ans. Yes; little houses where men working for the company lived.

130 Ques. Were they scattered all around?

Ans. Yes; scattered on this side of the fort, next to where the town of Vancouver now is.

131 Ques. Was any of these little houses as far down—as far as the houses are now?

Ans. Yes; there was some houses near where the town is now and some houses this side of the church.

141 132 Ques. Was the church this side of the fort?

Ans. Yes, sir.

133 Ques. How far was the church from the fort?

Ans. About 500 feet, more or less.

134 Ques. How far were the little houses down this way from the fort?

Ans. Some were farther than the church. They were scattered along the side of the road and out.

135 Ques. Where did the road run from?

Ans. The road started from the river and run to the church, and then another road ran down to Charles Proulx.

136 Ques. That road running down to Chas. Proulx ran through Vancouver, did it not?

Ans. I can't tell; it is so changed.

137 Ques. Did the road run from the church down the way the river runs?

Ans. Yes.

138 Ques. And then there was a road run from the church down to the river?

Ans. Yes.

139 Ques. These little houses were along both these roads?

Ans. Yes.

140 Ques. About how many white people were living here from 1841 to 1847?

Ans. I don't know.

142 141 Ques. Did you stay here long enough at any time between 1841 and 1847 to give us an idea of how many people lived here during that period?

Ans. They told me there was 150 Frenchmen here; the Frenchmen themselves told me so.

142 Ques. Were they Canadian Frenchmen?

Ans. Yes.

143 Ques. They were members of the Catholic church generally?

Ans. Yes.

144 Ques. Were they married men?

Ans. Yes; some married.

145 Ques. How many?

Ans. I got no idea.

146 Ques. Were there any children here?

Ans. Yes.

147 Ques. Were they Frenchmen's children?

Ans. Yes.

148 Ques. Did you see some English children here?

Ans. No.

149 Ques. How many white children did you see here?

Ans. I can't tell; I never counted.

150 Ques. How many Indian children did you see here?

Ans. Well, I can't tell; I never counted two.

151 Ques. Can you give us any idea of the number of white children there were here?

Ans. I can't tell; I saw three families here.

143 152 Ques. Now, you just tell us the exact words that Mr. Douglas said to John Findley when they were building the church, as near as you can.

Ans. Says Douglas to Findley: You did not work for the company; the priest will have to pay that.

153 Ques. What year was that?

Ans. That was in the fall of 1845.

154 Ques. Was John Findley a Frenchman or an Englishman?

Ans. Half English and half French.

155 Ques. Did he talk to him in English?

Ans. No; he talked to him in French.

156 Ques. Did they talk both languages there at that time?

Ans. No.

157 Ques. The only language they talked in was French, was it?

Ans. Yes.

158 Ques. Was this same John Findley at this place in 1847?

Ans. I don't know; after I see him to work here they sent him to *to* the north to build a fort; Douglas sent him.

159 Ques. Was Findley one of the men who was working for the company?

Ans. Yes; he was hired by the company.

160 Ques. By the month or by the year?

Ans. By the year.

161 Ques. How were the men generally employed by the Hudson Bay Company—by the month or by the year?

Ans. By the year.

144 162 Ques. How many other men were working on this church building in 1845?

Ans. Four or five.

163 Ques. Were they carpenters?

Ans. No; but they knew how to work timber.

164 Ques. Were they Frenchmen?

Ans. I don't know but some were Frenchmen.

165 Ques. They were the employees of the Hudson Bay Company, were they?

Ans. Yes.

166 Ques. You say there were lots of Indians here from 1841 to 1847?

Ans. Yes.

167 Ques. Did the Indians trap for the Hudson Bay Company?

Ans. I don't know.

168 Ques. What were the Indians here doing?

Ans. They were fishing and hunting, and I heard they were trapping.

169 Ques. How many Indians did you see here?

Ans. I can't tell.

170 Ques. Who did they trade with when they did any trading—with their furs and pelts?

Ans. Hudson Bay Company. They was the only company that had a store.

171 Ques. When the Indians committed any wrong or offence against the white people who punished them for it?

Ans. The Hudson Bay Company.

145 172 Ques. Did you know a Frenchman by the name of La Frambois, who lived near here?

173 Ans. Yes.

174 Ques. How far was that from the fort?

Ans. He was living along the side of that road from the church to the river.

175 Ques. Did he not live down the river a mile or two?

Ans. Yes; after he quit the company he went down on the Columbia river to where they call Brookfield. Now, that is what they told me, but I don't know; I never went down there.

176 Ques. You went to the church here in February, 1848—at the church where Findley was at work?

Ans. Yes.

177 Ques. Was there any United States soldiers here at that time?

Ans. Well, I did not see any.

178 Ques. You came here for what purpose at that time?

Ans. I brought a hog here to sell.

179 Ques. Who did you sell the hog to?

Ans. To Douglas, of the Hudson Bay Company.

180 Ques. Who was carrying on business here at that time?

Ans. Hudson Bay Company.

181 Ques. How many persons did you see in the church at that time?

Ans. I don't know. There were several, but I did not count them.

182 Ques. Can you give us an idea?

Ans. No.

183 Ques. Were there many white people?

Ans. Yes; the most of them were white people. There was some Indians there.

146 184 Ques. How many Indians?

Ans. There were five or six, maybe seven, maybe ten. I can't tell how many.

185 Ques. Were they men or were they women?

Ans. Both.

186 Ques. Give us an idea of the number of white people there at that time. Were there ten, fifteen, twenty or thirty, forty or fifty?

Ans. I can't tell.

187 Ques. If you can't tell how many white people were there, how does it come that you can tell the number of Indians?

Counsel for plaintiff objects to the question for the reason that the witness has distinctly answered that he does not know whether there was five or seven or ten Indians or how many and has repeatedly answered that he can't tell how many persons were there, either whites or Indians.

Ans. I can't give any idea; it is so long, too.

188 Ques. Your memory is not very good, is it?

Ans. I did not take notice, and it is so long, too, I did not take notice at that time.

189 Ques. You just passed through the congregation to your seat?

Ans. Yes; I see the people as I passed by to my seat and see them when the church was out, going away.

190 Ques. How does it come that you so well recollect what Mr. Douglas said to Findley, in 1845, when they were working on the foundation of the church?

147 Ans. Because when he talked to Findley the time I was there I had heard that the Hudson Bay Company was so hard on their people and Douglas was angry and I expected to see him strike him, and for that I remember what he said.

191 Ques. What else did Douglas say to the man?

Ans. He said you robbed the priests, because you do not work. That is as near as I can explain it in English.

192 Ques. What year was it that you talked to that Indian chief about religion?

Ans. I can't tell.

193 Ques. What was the chief's name?

Ans. Keasuo.

194 Ques. How did you come to talk to him about religion?

Ans. He came to Cowlitz to see his brother; he talked with his brother about the priests. I heard them talk together, and after that he talked to me.

195 Ques. This talk was at Cowlitz, was it, and not at Vancouver?

Ans. Yes.

196 Ques. Did you ever talk with him at Vancouver about religion?

Ans. Yes; he told me here at Vancouver that the priest taught him a prayer, and he said the prayer to me.

197 Ques. Did he say it in jargon?

Ans. He said a part in jargon and a part in his own language, and I did not understand but a few words.

198 Ques. You could not understand jargon very well at that time?

Ans. I understood a little.

199 Ques. Did you understand it enough to keep up a conversation?

148 *200 Ques.* Oh, no; I didn't understand it well enough to keep up a conversation.

201 Ques. The first time you talked with the chief about religion was on the Cowlitz, and how long after that at Vancouver?

Ans. It was after I talked with him at Cowlitz.

The further taking of testimony herein is now adjourned by consent of parties until to-morrow morning at nine o'clock.

W. BYRON DANIELS, *Referee.*

SECOND DAY, *Aug. 2nd*, 1887.

The same parties, by their attorneys, appeared to-day, pursuant to adjournment of yesterday.

Redirect examination of JOSEPH ST. GERMAIN:

202 Ques. You said on cross-examination that the Frenchmen here at Vancouver in the employ of the Hudson Bay Company told you that there were about 150 Frenchmen in the employ of the Co. Did you mean to say that there were or that they told you that there were about 150 Frenchmen here at Vancouver in the employ of the company?

Ans. No; they told me there was that many scattered all over from here to Fort Hall.

203 Ques. You speak in your testimony of married women living here at Vancouver between 1841 and 1848. Were they white women?

Ans. Well, they were Indians, so far as I know.

204 Ques. Were they married to Indians or white men?

Ans. White men.

205 Ques. The women you speak of having seen in church on the two occasions mentioned by you when you attended church, were they white women or Indians?

149 Ans. Indian women.

206 Ques. You spoke of having talked with an Indian chief named Kiasno. Where did he live, if you know?

Ans. He lived at the mouth of the Willamette river, this side.

207 Ques. How often did you ever see him at Vancouver?

Ans. Well, I say several times.

208 Ques. You spoke yesterday about the Hudson Bay Company punishing Indians for bad conduct. Did you ever see them punish an Indian?

Ans. No; I never see, but I heard of it.

209 Ques. Since you were on the witness stand yesterday have you observed the directions or courses north, south, east, and west here at Vancouver?

Ans. Last night I take notice. I went on the place there after sunset.

210 Ques. Went on what place?

Ans. That old road to go from the church to the river.

211 Ques. Is there a church now standing at the same place where you saw the foundation being laid of a church as mentioned by you yesterday?

Ans. Yes.

212 Ques. Now, in which direction, by the sun, did that old road lead which you said yesterday ran from the church down the river?

Ans. Northwest.

213 Ques. Since testifying on yesterday, state whether you have measured the distance in any way from the Columbia river north to the church which you saw being built, as stated by you yesterday?

150 Ans. I went down to see. It is about 2,200 feet, more or less, from the river to the church.

214 Ques. How did you measure it?

Ans. I stepped it.

Recross-examination:

215 Ques. Was yesterday the first time you ever noticed the place where the sun set at Vancouver?

Ans. Yes, that was the first time.

216 Ques. From Vancouver, until yesterday evening, you did not know where north, south, east, or west was with reference to the location of the church you speak of?

Ans. No.

Redirect:

217 Ques. You said yesterday you did not know the distance from the Cowlitz to Portland or Vancouver. Do you know how far they call it; did you ever hear how far it is?

Ans. Well, they told me it was 80 miles; but I do not know.

Recross-examination, by consent:

218 Ques. Was there a picket fence around the Hudson Bay Company's trading establishment?

Ans. Yes. The fence was made of big fir trees, split, and stood up about 18 feet high and from a foot to 18 inches wide.

219 Ques. What was inside of that picket?

Ans. The fort and house for boss and store, and what I call the warehouse.

151 220 Ques. How long was that picket fence, and how wide?

Ans. I can't tell.

221 Ques. Wasn't there about 13 houses outside of that fence?

Ans. I don't know.

222 Ques. Was there a hospital building?

Ans. Yes, there was a hospital near the river.

223 Ques. Was the hospital on the road leading from the church to the river?

Ans. Yes.

224 Ques. Wasn't there a lot of old sheds outside of the pickets—four or five?

Ans. Saw a barn back of the fort outside.

225 Ques. Did you see four stables outside of the pickets?

Ans. I did not see any stables.

226 Ques. Wasn't there a storehouse down on the river?

Ans. I didn't notice it.

227 Ques. How many dwelling-houses were inside the pickets?

Ans. There was only one; but it was a long house—had many doors—where the clerks lived.

228 Ques. The governor's house was inside, wasn't it?

Ans. Yes.

229 Ques. You mean Gov. Douglas?

Ans. Yes.

230 Ques. Did you know Mr. Graham?
Ans. Yes.
231 Ques. Did he have a house inside?
Ans. I don't know.
152 232 Ques. Was there a granery—a place to keep grain?
Ans. Yes; inside the pickets.
233 Ques. Was there a blacksmith shop?
Ans. Yes; inside.
234 Ques. Was there a bake-house for baking?
Ans. Yes; inside.
235 Ques. Was there a washing-house?
Ans. I don't know.
236 Ques. Was there any wells for water?
Ans. I don't know.
237 Ques. About how many fruit trees were there planted out?
Ans. Yes; I have seen some, but can't tell how many.
238 Ques. Did you ever see any ground about the fort planted in wheat?
Ans. No.
239 Ques. Did you notice any fences around the ground outside the pickets?
Ans. Yes.
240 Ques. How much fence?
Ans. I can't tell.
241 Ques. What did it enclose—how much land did it enclose, about?
Ans. About four or five acres, more or less.
242 Ques. Where was that land; on which side the fort?
Ans. On the west and some of it was back of the fort, all in the same field.
243 Ques. What was growing in that field?
Ans. There was apples trees and I seen potatoes.
(Signed) JOSEPH ST. GERMAINE.

153 Plaintiff next introduced as a witness on its behalf MARCEL BERNIER, who, being by me first duly sworn, did depose and testify as follows:

1 Ques. State your name, age, residence, and occupation.
Ans. Marcel Bernier; 67 years old; I live in Lewis county, Washington Territory; I am a fermer.
2 Ques. When did you first come to Vancouver?
Ans. In October, 1841.
3 Ques. How long were you here at that time?
Ans. About eight or ten days.
4 Ques. Did you see any Catholic priests or priests here at that time?
Ans. Yes, sir.
5 Ques. What was the name of the priest or priests you then saw here?
Ans. Father Modeste De Mers, Father Blanchet—been archbishop since.

6 Ques. Where did you go to when you left Vancouver that time?

Ans. To Lewis county; used to call it Cowlitz.

Ans. When you were first here, during that 8 or 10 days, did you attend church service anywhere?

Ans. Yes; I went to church once.

8 Ques. At what place or in what house was that church service held?

Ans. It was inside the fort.

9 Ques. What kind of service was it?

Ans. It was Catholic church and priest.

154 10 Ques. What was the name of the priest who officiated on that occasion?

And. Father De Mers.

11 Ques. What furniture, if any, was in that room where that service was held?

Ans. It was a common house in which they held the service. It was no regular church.

12 Ques. Was there any altar or pews or seats in the room?

Ans. No; benches and chairs and stools.

13 Ques. How long after that before you was again in Vancouver?

Ans. I was back most every year after that. It was our trading-post.

14 Ques. How often in the year—more than once?

Ans. Not less than once; sometimes twice.

15 Ques. Did you ever attend church service or mass at any of the other times when you came here between 1841 and 1848; and, if so, in what house?

Ans. Yes; once in 1846, in regular church outside the fort. This was the first time since 1841.

16 Ques. How far was that church from the fort and in what direction?

Ans. About northwest, about 200 yards distant, more or less.

17 Ques. About how many persons were in the church at the same time when you were in it in 1846?

Ans. Well, I can't tell. They were mixed-up people; some Indians and some white people.

155 18 Ques. Well, about how many—5 or 6, 15 or 20? Just as near as you can remember it.

Ans. I can't tell; I didn't count them. It was a tolerably filled-up church.

19 Ques. Were there any women among them?

Ans. Yes; Indian women.

20 Ques. Did you see any white womwn among them?

Ans. Not that I recollect. There was some white women in the fort, but I don't recollect seeing any in the church.

21 Ques. Do you know whether the pri-stss taught the people who were present on that day anything; and, if so, what did they teach them?

Ans. They preached in French and *jorgan.*

22 Ques. What is your nationality?

Ans. I was borne in Washington Territory, up at Spokane.

23 Ques. What was the nationality of your parents? What language did they speak?

Ans. French Canadian.

24 Ques. In what language do you usually speak and converse?

Ans. French.

25 Ques. Name all the priests, so far as you can recollect, with whom you became acquainted here between the time you first came to Vancouver, in 1841, and the year 1848.

Ans. In 1842 Fathers Langlois and Bolduc came. In 1846 Archbishop Blanchet went to France and, I believe, brought back with him several priests, and one of them named Father Delavoux, and he was stationed at Vancouver.

156 26 Ques. Did you see Father Delavoux at Vancouver; and, if so, when did you first see him here and how long did he remain, as far as you know?

Ans. Yes; in 1847 saw him at church in Vancouver. I can't tell how long he remained. He staid many years.

27 Ques. Did you ever see Father Langlois or Father Bolduc here at Vancouver, and, if so, how frequently, between 1841 and 1848?

Ans. I didn't see them; only heard it.

28 Ques. State, if you know, by what means the priests who were here at Vancouver between 1841 and 1848 were supported.

Ans. They were supported by the settlers and the Indians.

29 Ques. Did you yourself give them anything?

Ans. Yes; at Cowlitz, not at Vancouver.

30 Ques. How do you know that the priests here at Vancouver received anything from the settlers and Indians?

Ans. The priests said so themselves. They told me.

Defendants' counsel here moves to strike out of the testimony all conversation between the witness and the priest- as to the means of their support.

31 Ques. At what time did the priest tell you so—before 1848 or after?

Objected to as irrelevant, immaterial, and improper.

Ans. Before 1848.

32 Ques. Do you know whether or not before 1848 the priests here at Vancouver, any of them, traveled around among the Indians tribes here?

157 Objected to by defendants' counsel as leading, and insists that the question must be put in such shape as not to suggest the answer.

Ans. Yes, sir.

33 Ques. Do you mean they did or did not?

Objected to for the same reason as the last.

Ans. Yes; I mean they did.

34 Ques. How do you know they did?

Ans. I know it myself. I went many times with them.

35 Ques. How many men usually accompanied them when you were along.

Ans. I was once with them on a long trip between eight and ten months. I can't tell exactly. We were down the sound.

36 Ques. How many men were with you at that time?

Ans. One Kanaka Indian from that island in the sea—I don't know what you call it—and a boy.

37 Ques. How many priests were along on that trip and who were they?

Ans. Two; Father De Mers and Father Bolduc.

38 Ques. Where did you sleep of nights on the trip?

Ans. Best we can catch. I mean we slept on the ground and under trees.

39 Ques. How did you travel? I mean by what manner of conveyance, if any.

Ans. We traveled sometimes horseback, with pack-horses, and sometimes with canoe.

40 Ques. What was the object of making that trip?

Ans. Teaching the Indians.

158 41 Ques. Did the priests have any guns or weapons with them, or were there any in the company; and, if so, how many?

Ans. I had one myself; the priests had none. That was my own gun.

42 Ques. Was that the only gun in the company?

Ans. Yes.

43 Ques. Did you ever see any Indians here at Vancouver at the time you were here between 1841 and 1848, and were there many or few?

Ans. Quite many Indians here.

44 Ques. Was there any inclosure belonging to the Hudson Bay Company beside the fort here at that time—I mean between 1841 and 1848; and, if so, what kind of enclosure, how large was it, and what was inside of it?

Ans. Not around the fort.

45 Ques. Was there any field or orchard near the fort within that time as far as you recollect?

Ans. West of the fort there was a little orchard and garden; I can't tell how many acres—very little; a small field.

46 Ques. Was that field fenced?

Ans. Yes, sir.

47 Ques. Why, then, did you say there was no enclosure near the fort?

Ans. I meant to say none except a little field which joined the fort.

48 Ques. Were there many or few Indians inhabiting the country through which you traveled on that 8 or 10 months' trip you say you made with the priests?

159 Ans. There was a lot of them.

49 Ques. Did the priests on that trip do anything else among the Indians than preach; and, if so, what?

Ans. Baptized the young ones and the old ones who were sick and about to die.

50 Ques. How was it as to the number of the whites inhabiting that country at that time?

Ans. I don't know; there was only one place, and that was at Fort Nesqually, the Hudson Bay Company's post.

51 Ques. How far north did you go along Puget sound on that trip?

Ans. To the north part of Whidby's island.

52 Ques. How long did you remain there?

Ans. Between 4 and six months; I can't tell positive; not short of 4 months.

53 Ques. How did you live while you were there, under the trees?

Ans. Quite a long time under the trees until we built a little log house.

54 Ques. Who built the little log house?

Ans. I did, with the Indians help to raise it.

55 Ques. How did you roof it in?

Ans. With split cedar.

56 Ques. Were you ever in the employ of the Hudson Bay Company; and, if so, when, and how long?

Ans. No; but I made some cart wheels for them once when I first came; not by the month, but by the job.

57 Ques. When did you first see any United States soldiers at Vancouver?

160 Ans. I can't remember exactly.

58 Ques. Were there any here when you were here in 1846?

Ans. Not that I know of.

59 Ques. Were you here in 1848?

Ans. Yes; I was here every year until 1856.

60 Ques. Were there any United States soldiers here in 1848 when you were here?

Ans. I can't remember exactly.

61 Ques. Was there any grave-yard or cemetery here at Vancouver between 1841 and 1848?

Ans. Yes, sir. I seen that in 1844. Before that don't remember any.

62 Ques. What kind of people were buried there, if you know?

Ans. All kinds; Indian women who had been baptized and maried to white men, and white men.

63 Ques. Were there any Catholic graves there?

Ans. Yes; only one that I know. There was a cross on it.

64 Ques. How many crosses were there?

Ans. I don't know. There was a good many. About half of the little yard was filled with graves, and there was a fence around it to keep the stock out.

65 Ques. Have you any idea how many employees of the Hudson Bay Company were living here at Vancouver at any time between 1841 and 1848?

Ans. No. Sometimes a great many; sometimes less. They came from other posts here for supplies.

Cross-examination:

161 66 Ques. Between 1841 and 1848 did the priests have any other church than the church at Vancouver?

Objected to by plaintiff's counsel as immaterial.

Ans. Yes. Outside from here, at Cowlitz prairie, there was one.

67 Ques. Where else?

Ans. In Oregon, Marion county; called it St. Paul.

68 Ques. Any other place?

Ans. At Cowlitz, St. Francis.

69 Ques. Where did you start from when you went with the priests, Demers and Bolduc, on that Puget sound trip?

Ans. At Cowlitz prairie.

70 Ques. Where the church was?

Ans. Yes, sir; at St. Francis church.

71 Q. Did these same priests preach at that church?

Ans. Not all the time. They went around on mission tours.

72 Ques. What priests were stationed at that church?

Ans. Not regular station. Father Demers was the one who was there the most of the time.

73 Ques. Is that church there yet?

Ans. Yes, sir.

74 Ques. Who owns the land around that church?

Ans. The church is on 640 acres that belongs to the mission.

75 Ques. How long have they owned it there?

Ans. The mission was there in 1841.

76 Ques. Where did the bishop live who had control of the priests in 1848?

Ans. There was no bishop here at that time.

162 77 Ques. When was the first bishop here?

Ans. In 1846 and 1847, he was elected, I believe; that was Archbishop Blanchet.

78 Ques. When you went onto Whidby island with the priests did you not go there to establish a mission?

Objected to as immaterial.

Ans. We went there to teach the Indians, not to establish a mission as I know of.

79 Ques. The Indian women that you saw at the church here in 1846, were they not married to the men who were in the employ of the Hudson Bay Company—the most of them—or kept by them as their wives?

Ans. Yes; a part of them were the Hudson Bay Company's servants' wives.

80 Ques. Were there not a great many Kanaka men from the Sandwich islands working for the Hudson Bay Company between 1841 and 1848?

Ans. Yes; there was quite many of them.

81 Ques. Where did these men live?

Ans. In shanties outside the fort, the most of them.

82 Ques. How did you happen to come here to testify in this case?

Ans. I been notified to come as a witness.

83 Ques. Who notified you?

Ans. Father Kanten, at Cowlitz prairie.

84 Ques. Who is Father Kanten?

Ans. He is a priest at Cowlitz prairie.

163 85 Ques. You are a member of the Catholic church, are you?

Ans. Yes, sir; certainly.

86 Ques. Where did Father Langlois generally preach?

Ans. Generally at the station at Cowlitz prairie, Lewis county.

87 Ques. What years did he preach there?

Ans. I can't positively tell; I think in 1844 he began.

88 Ques. What year was the last time you saw him there?

Ans. I can't be positive, but I think in 1847.

89 Ques. Where did Bolduc, the priest, usually preach?

Ans. He had his station at Cowlitz, but he went backwards and forwards aming the Indians.

90 Ques. Where did Father Delavoux preach?

Ans. At Vancouver.

91 Ques. Did he ever preach at the Cowlitz, too?

Ans. Not that I know of.

92 Ques. Where did Father Demers preach, usually?

Ans. At Cowlitz prairie, sometimes at Vancouver, and sometimes out on Indian missions.

93 Ques. Was the church at Cowlitz prairie in 1841, when you came there?

Ans. Yes; a log church.

94 Ques. Did they preach and teach to the Indians there?

Ans. Both, to what few whites there was and to the Indians, too.

95 Ques. Many Indians there?

Ans. Oh, quite many.

96 Ques. Have a grave-yard there?

Ans. Yes, sir.

164 97 Ques. Catholic grave-yard?

Ans. Yes, sir.

98 Ques. How near was the grave-yard at Vancouver to the fort and which side?

Ans. I can't tell; it was on the north side, on raised ground.

99 Ques. The persons buried there, were they the wives and children of employés and persons who had been in the employment of the Hudson Bay Company?

Ans. Part of them.

100 Ques. Who were the other part?

Ans. Hunters and any one who belonged to the Catholic church; free families.

101 Ques. How did the Indians generally bury their dead?

Ans. In canoes.

102 Ques. Well, tell us how.

Ans. Any Indian who don't belong to the Catholic church they

put him in a canoe and raise him four or five feet from the ground on a scaffold.

103 Ques. How near was the church to the little field and garden?

Ans. I can't tell; it was across the road on the north side from the field and fort and about 75 feet, more or less, from the northwest corner of the field.

104 Ques. How was the fort built—that is, tell us all about how it was situated.

Ans. It was built nearly north and south; east and west. There was a picket fence around the fort made of round logs, be-
165 tween 18 or 20 feet high, more or less, square at the top, set close together on end, buried in the ground, standing upright, six inches, more or less, in diameter. I can't give any idea as to how long the stockade was. They had store and granery and dwelling-houses and office for clerks. There was a hospital building outside next to the river. There was some little cabins outside the fort built for the Hudson Bay Company*'s* servants. I can't tell how many. These cabins were built any place around, so they would be handy for them, some closer and some a little further from the fort. They were all on south side of the church. The church was on the north side of them. Some cabins were just as near to the fort as the church; some were further away.

105 Ques. How much ground was occupied by the fort, church, and buildings, cabins and the hospital?

Ans. I can't tell. I can give you no idea. It would be quite a patch.

106 Ques. Were there any stables near the fort?

Ans. Yes.

107 Ques. Whose stables were they?

Ans. They belonged to the Hudson Bay Company.

108 Ques. How many stables were they?

Ans. I don't know. It would be pretty hard to tell.

109 Ques. Why would it be pretty hard to tell how many stables?

Ans. I tell you the reason. A great many of these teamsters had their little stables, and there was a great many teamsters working for the company.

166 110 Ques. How near were these stables to the church?

Ans. They were between the fort and the river.

111 Ques. That would be south of the fort, would it?

Ans. Yes, sir.

112 Ques. About how far was it from the fort to the river?

Ans. I can't tell; can't give an idea.

113 Ques. Was there not a great many white people living here in 1847 and 1848?

Ans. There was less of the compan*ie*'s servants, but they were settling up around here at that time.

114 Ques. Hadn't there a good many people settled where Vancouver now is in 1847 and 1848?

Ans. They were beginning; very few.

115 Ques. Was there a blacksmith shop here?

Ans. Yes; inside the fort.

116 Ques. How many storehouses were inside the fort?

Ans. Flour, groceries, and dry goods, one each; there were three.

117 Ques. How many dwelling-houses inside the fort?

Ans. I can't tell how many; there were several of them.

118 Ques. Was there a granery inside the fort where they kept the grain?

Ans. Yes; one.

119 Ques. Was there a cook or bake house inside the fort?

Ans. Yes.

120 Ques. Was there a magazine where they kept arms and ammunition?

Ans. I knew they had ammunition, but I can't tell where
167 they kept it; whether in a cellar or in a house or where.

121 Ques. Was there a butcher shop inside the fort?

Ans. No; no regular butcher shop.

122 Ques. Was there any wells where they got their water?

Ans. Not that I know of.

123 Ques. About how many trees were in the orchard?

Ans. I don't know; quite a little patch. I can't tell how many.

Redirect:

124 Ques. Was the room inside the fort in which the Catholic priest held church service connected with any other building or did it stand alone?

Ans. I can't be positive whether it stood separately or was connected with another building. I know there was one.

125 Ques. Was there any enclosure around the church outside the fort in 1846?

Ans. It was fenced on three sides, but no fence next to the road where the church fronted.

126 Ques. About how much ground was fenced in with the church at that time?

Ans. I can't tell; I am a poor guesser.

127 Ques. What is the distance between the Cowlitz mission and Vancouver by the route you generally traveled from 1841 to 1848?

Ans. I think about 100 miles, more or less.

128 Ques. How did you generally travel then?

Ans. In a canoe; sometimes on horseback by the trail when the water was low.

168 129 Ques. What was the distance called by the trail?

Ans. Don't think there was much difference between the waterway and the trail, because one was about as crooked as the other.

130 Ques. How long did it usually take to make the journey at that time from one place to the other?

Ans. Have good luck, make the trip in about eight days, either by land or by water, from there here and back.

131 Ques. Where was Father Langlois stationed, if you know?

Ans. Partly here, partly at Cowlitz, mostly at the Cowlitz prairie.

132 Ques. Which one of the fathers or priests spent the most of the time here between 1841 and 1848, as far as you know?

Ans. I can't tell which one lived here the longest; sometimes one

and sometimes another was here; the one who lived here longest, from 1847 up, was Father Delavoux.

133 Ques. What furniture, if any, was inside the church building that was erected outside the fort in 1846?

Ans. I did not see much furniture; it was poorly rigged; there was benches to sit on; there was an altar.

Recross-examination:

134 Ques. What kind of a fence was around the three sides of the church in 1846 when you were here?

Ans. Partly rail fence and partly picket fence, made out of split timber.

135 Ques. About how many acres was inside of it? Was there an acre?

Ans. Pretty hard to measure; I can't tell.

169 136 Ques. Was it a large or small patch?

Ans. It was a tolerably fair sized — for any yard.

137 Ques. It was not a field, was it?

Ans. Oh, no.

138 Ques. How would it compare in size with the field that was fenced in where the orchard was?

Ans. I can't tell; it looked shorter that the fort.

139 Ques. Did it enclose as much ground as the fort, or was it a little smaller than the fort?

Objected to as wholly immaterial.

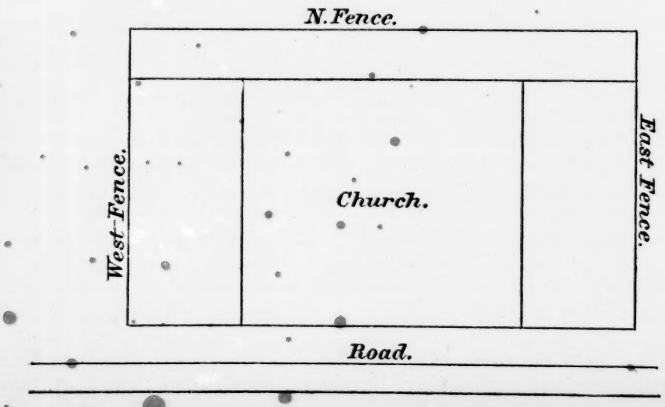
Ans. Oh, smaller; I mean the church-yard was smaller.

140 Ques. Was the church building wholly within the inside of this yard—that is, was the fence so built that with the front of the church the yard was completely enclosed?

Ans. There was no fence on the south side; that was the front of the church.

141 Ques. Make me a diagram showing how the church was situated, with the fence around it and the road.

Witness here made the following diagram:



170 142 Ques. The road was on the south side of the church, was it?

Ans. Yes.

143 Ques. About how long and wide was the church-house?

Ans. I can't tell.

Redirect:

144 Ques. How much land, if any, did the church or priests have fenced in or enclosed in 1848 on the 640 acres of land granted them as a mission at the Cowlitz?

Ans. I can't tell.

145 Ques. Did they have any?

Ans. Oh, yes; if anything, there was over 50 acres in a field in 1848 belonging to the mission.

146 Ques. Did they have the 640 acres fenced in or enclosed or marked out on the trees or designated in any other way before 1848?

Ans. There was none fenced in but the 50 acres, not all fenced in yet.

Recross by consent:

147 Ques. Did the priests have their land farmed and cultivated at the Cowlitz prairie in 1848?

Ans. Part of it, a little over 50 acres.

148 Ques. Was there people living around there claiming other land?

Ans. Yes; they had adjoining claims.

149 Ques. Did they claim any of this land that the priests claim?

Ans. No, sir.

171 150 Ques. It was generally understood that that land belonged to the mission, and no one disputed that?

Ans. Yes, sir.

151 Ques. Was there anybody else occupying it but the priests?

Ans. It was rented.

152 Ques. Who rented it?

Ans. I suppose it was rented by order of the bishop.

153 Ques. Who got the money for the rent?

Ans. The mission for the expense.

154 Ques. How many acres of the 640 acres was cultivated by the renters?

Ans. Over half; I can't tell how much over.

155 Ques. What did they do with that part they did not cultivate?

Ans. Pastured it.

Redirect:

156 Ques. Do you mean that there was over half of the 640 acres or over half of the 50 acres that was cultivated by renters?

Ans. Over half of the 640 acres. They did not rent any before 1848. They cultivated the 50 acres before 1848. I mean that they rented since 1848 and not before.

157 Ques. When you say that no one else claimed any part of that land before 1848 do you mean the 50 acres enclosed or the whole 640 acres?

Ans. I mean the whole 640 acres.

158 Ques. Do you know how much the priests claimed before 1848 at Cowlitz?

172 Ans. That I don't know how much they claimed except that they claimed that which they were on. There was stakes between them and the settlers around.

159 Ques. Have you any idea how much land was inside the stakes which you say were between the priests and the settlers around?

Ans. No, sir; I don't know how wide it was. It was inside a mile wide in one direction. The other direction I don't know how wide it was.

Recross-examination by consent:

160 Ques. How much land do they claim there now?

Ans. 640 acres.

161 Ques. Is that the same land that was enclosed in those stakes that they claim now?

Ans. Yes; the same land.

Redirect by consent:

162 Ques. Do you know that the whole of the 640 acres which they now claim was inside the stakes between them and the settlers before 1848?

Ans. The stakes were on two sides of the 640 acres before 1848, on the west and east sides; nothing on the north side. It was public land; the Cowlitz river on the south side.

163 Ques. Well, now, when they came to make the Government survey of 640 acres of land did they or not take in any of that public land on the north side to make up the 640 acres?

173 Ans. I have been told they extended back to make up the 640 acres.

164 Ques. About how long was the line that was staked out on the east and west sides?

Ans. I can't tell. I seen the stakes and that's all.

165 Ques. And you don't know how far back on the public land the survey was extended beyond those stakes to make the 640 acres?

Ans. No; I never measured it. The 640 acres was surveyed before there was a Government survey by private individuals.

166 Ques. Did the Hudson Bay Company claim that country in 1848 on which that 640 acres of land is now located?

Ans. The Hudson Bay Company claimed the land on the east side of the mission and on the north and south sides, but not on the west of the mission. There were settlers there.

167 Ques. Do you know how much country the Hudson Bay Company did claim here in Washington Territory at that time?

Ans. I don't know. I don't know the size; I know the places.

Recross by consent:

168 Ques. What places was it the Hudson Bay Company claimed?
Ans. Clarke county, Vancouver, Pierce county, Nesqually plains, Lewis county, Cowlitz prairie.
169 Ques. Did they claim the land that the priests now have at Cowlitz prairie?
Ans. No, sir.
170 Ques. Did they claim the land where the town of Van-
174 couver is now and where the military post is?
Ans. I cannot tell anything about it.
171 Ques. What do you mean when you say the Hudson Bay Company claimed Vancouver?
Ans. They put a claim in for the United States to pay them.
172 Ques. Where was the principal place or headquarters of the Hudson Bay Company during the years from 1841 to 1849 in Washington Territory?
Ans. Vancouver was their chief trading place. Governor Douglas resided here. He was the chief trader west of the Rocky mountains, and he claimed to be the governor of the company west of the Rocky mountains.
173 Ques. How far up and down the coast did he claim to have control?
Ans. I can't tell. He claimed Vancouver island and north of that.
174 Ques. How far south?
Ans. I don't know how far south.
175 Ques. How far west?
Ans. I can't tell either; of course the Pacific ocean would be the end.

Redirect by consent:

176 Ques. Did the Hudson Bay Company have forts or trading posts at each of these places which you say they claimed—at Nesqually plains, in Pierce county, and at Cowlitz prairie, in Lewis county?
Ans. They had at Nesqually plains, but not at Cowlitz. They were farming there.

MARCEL BERNIER.

175 The further taking of testimony herein is now adjourned, by consent of parties, until to-morrow morning at nine o'clock.

W. BYRON DANIELS, *Referee.*

Third Day.

AUGUST 3RD, 1887.

The same parties, by their attorneys, appeared to-day pursuant to adjournment of yesterday.

Plaintiff next introduced as a witness in its behalf CATHERINE PETRAIN, who, being first duly sworn, testifies as follows:

1 Ques. What is your name, age, and residence?
Ans. Catherine Petrain; 54 years old, and I reside in Vancouver.

2 Ques. When were you first at Vancouver?
Ans. I came here in 1846.
3 Ques. Have you ever been married?
Ans. I have.
4 Ques. To whom were you married, and when?
Ans. Joseph Petrain; on the 14th day of August, 1848.
5 Ques. At what particular house or place were you married?
Ans. At St. James cathedral, at Vancouver.
6 Ques. By whom was the marriage ceremony performed?
Ans. By Father Accolti.
7 Ques. Who was Father Accolti?
Ans. He was a Jesuit priest.
8 Ques. How old were you at the time of your marriage?
176 Ans. I was 15 years old.
9 Ques. Was the Hudson Bay Company located here at that time?
Ans. They were.
10 Ques. What improvements, if any, did the Hudson Bay Company have here at Vancouver when you came here?
Ans. They had a fort all enclosed, and their main buildings, stores, and warehouses were enclosed inside the fort.
11 Ques. State whether at that time any religious services, to your knowledge, were held at this place where Vancouver now is; and, if so, at what particular place and by what denomination or church those services were conducted.
Ans. There were church services held at St. James cathedral, this old church, when I first came here, by Father Devos.
12 Ques. You never attended church inside the fort, then?
Ans. No.
13 Ques. How far was the church building which you call the cathedral from the fort and in what direction?
Ans. It was northwest of the fort. I can't say just how far.
14 Ques. Who did you come to this country with?
Ans. My father.
15 Ques. Were you ever in the church or cathedral before you were married in it?
Ans. I was.
16 Ques. How often?
Ans. Maybe about 5 or 6 times. We lived in the country about 15 miles and used to come into church services sometimes once a month.
177 17 Ques. Who else, if any one, did you see at and in the church on those occasions; what character of persons and about how many?
Ans. Indian men and Indian women, Frenchmen from Canada; maybe there might be 100, maybe more or less; they all went to church that belonged to the church, as they were compelled to attend by their governor. There was different place and denominations.
18 Ques. At what other place, if any, and by what other denomi-

nation were any religious services held in Vancouver between 1846 and 1848?

Ans. Governor Douglas held church inside of the fort on Sundays, services of the Church of England, as they call it.

19 Ques. What, if anything, was done on Sundays in the Catholic cathedral or church building at which you say you attended services from 1846 to the summer of 1848?

Ans. Heard them say mass and preach and teach the Indian children and women their catechism.

20 Ques. Did you see them baptize any one in that church?

Ans. I have.

21 Ques. Before the summer of 1848?

Ans. Yes, sir.

22 Ques. How many baptisms did you see in that cathedral or church before the summer of 1848?

Ans. I don't exactly recollect, but I think 7 or 8 Indian women and children.

23 Ques. What was the condition of the church building of which you speak, as to being finished or otherwise, when you
178 first came here?

Ans. The building frame was put up and weather-boarded in and roofed and floored; it was just the main shell of the building.

24 Ques. What furniture, if any, was in the room at that time?

Ans. Benches and small altar.

25 Ques. What was the condition of the church, as to being furnished or otherwise, at the time you were married in it?

Ans. It was the same.

26 Ques. How long after you were married before the church was finished inside, as near as you can recollect?

Ans. I couldn't hardly say how long after; it was all of three or four years after I was there.

27 Ques. Did you ever see or hear any other preacher or minister conduct religious services in that church beside the priest by whom you were married between 1846 and the summer of 1848?

Ans. I have.

28 Ques. Who was that person or persons?

Ans. Father Demers, and I can't remember the other names.

29 Ques. Did Father Demers conduct the religious services in that church at the time when you were present between 1846 and the summer of 1848?

Ans. Yes; I have been at the church when he held services.

30 Ques. Did any other person than Demers conduct either of the religious services at which you were present between 1846 and 1848?

Ans. Yes; but I don't remember their names; it has been so long ago.

179 31 Ques. Was there any grave-yard or cemetery here at Vancouver before 1848?

Ans. There was.

32 Ques. Where was it with reference to the location of the fort and the church?

Ans. It lay northeast of the fort, in a little oak grove, and nearly east of the church.

33 Ques. About how far was the cemet-ry from the church, as nearly as you can judge?

Ans. I should say from 200 to 300 feet. I ain't sure; maybe more.

34 Ques. Have you any idea how much 300 feet is, and do you mean feet or yards?

Ans. I meant to say 300 yards when I said 300 feet, perhaps.

35 Ques. Is there any manner in which you would ordinarily be able to designate the grave of a Catholic person from that of other persons in a cemetery; if so, in what manner?

Ans. The Catholic graves would have a wooden cross to show they were Catholics.

36 Ques. Were there any Catholic graves in the cemetery of which you are speaking? And, if you say there were, state how you know.

Ans. I have seen the crosses myself there.

37 Ques. After you were married where did you first reside?

Ans. I resided close by the church.

38 Ques. What was your husband's occupation at that time, if any?

Ans. He was the baker of the Hudson Bay Company.

39 Ques. What was his religious sentiment, if he had any?

Ans. He was a Catholic.

180 40 Ques. At what time, with reference to the date of your marriage, did you first observe those crosses marking graves in the cemetery?

Ans. Before I was married I saw them.

41 Ques. Was there any cultivated land near the fort at the time you were married?

Ans. There was. It is hard for me to state how much. They had their gardens and orchards enclosed outside the fort.

42 Ques. How far from the fort was the orchard and garden?

Ans. Just back of the fort and kind of down.

43 Ques. State, if you know, how the Catholic priests who were here from 1846 to the summer of 1848 were supported or maintained.

Ans. So far as I know, the congregation used to donate to them.

44 Ques. Do you know whether or not your husband ever gave them anything?

Ans. I do.

45 Ques. About how much and how frequently did he donate anything to their support?

Ans. I don't know exactly how much, but he used to donate them money and grain and things like that; sometimes once a month.

46 Ques. Do you know whether or not your father contributed anything towards the support of the priests here at Vancouver before you were married?

Ans. He did.

47 Ques. How frequently and how much, if you know?

Ans. I have seen him come in and take them five dollars at one time.

181 48 Ques. State whether there were many Indians in and around Vancouver when you first came here.

Ans. Yes; I saw a great many Indians.

49 Ques. Were there any United States soldiers here at Vancouver before or at the time you were married?

Ans. The first soldiers that were here came in May, 1849, after I was married.

Cross-examination:

50 Ques. What time in 1846 did you come here—what month?

Ans. About the latter part of October.

51 Ques. When you speak of the old St. James cathedral you mean the old church near where the fort of the Hudson Bay Company was built and the old church that is now within what is known as the military reservation?

Ans. Yes.

52 Ques. The marriage ceremony, you say, was performed by a Jesuit priest? Why did you get a Jesuit priest to perform that ceremony at that time? Is it not a fact that he was but a travelling missionary and the regular priest was away?

Ans. No; the regular priest was not away; he was staying here at the same time. His name was Father Delavoux.

53 Ques. Father Accolti was not stationed here, was he?

Ans. No.

54 Ques. Where was he stationed, if any place?

Ans. I couldn't tell. He was travelling. He was an evangelist.

55 Ques. Now, you say that the principal houses of the Hudson Bay Company were inside the fort. What do you mean by the fort?

182 Ans. I mean the place that was all enclosed with the buildings inside.

56 Ques. How was this place enclosed?

Ans. It was enclosed with small timbers, fir logs standing up.

57 Ques. About how long and how wide eas this enclosure?

Ans. I could not tell; I should think from two to three acres was enclosed.

58 Ques. You were frequently around inside the fort where your husband was, were you not?

Ans. Yes.

59 Ques. Were there not four large storehouses inside the fort?

Ans. Yes, there was.

60 Ques. Was not the governor's dwelling-house inside the fort?

Ans. It was.

61 Ques. You mean Governor Douglas?

Ans. Yes.

62 Ques. Did you know Mr. Graham, and what his connection with the Hudson Bay Company was?

Ans. I did; he was the head clerk of the company. I think his name was James, if I am not mistaken.

63 Ques. Was not his dwelling-house inside the fort?

Ans. Yes; it was.

64 Ques. Was there not three other houses inside the fort for the officers and clerks?

Ans. There was.

65 Ques. Was there not a granery inside the fort?

Ans. There was.

66 Ques. Was there not a blacksmith shop inside the fort?

183 Ans. Yes.

67 Ques. Was there not a bake-house inside the fort?

Ans. Yes.

68 Ques. Was there not a magazine, a place where they kept their guns and ammunition, inside the fort?

Ans. There was.

69 Ques. Was there not a washing-house inside the fort?

Ans. I don't know of any wash-house there; every one did their own washing.

70 Ques. Was there not a kitchin for the governor's house?

Ans. There was.

71 Ques. Was there not a butcher shop?

Ans. Wall, I ain't sure about that.

72 Ques. Where did they get their water?

Ans. Hauled it from the river; no wells that I know of.

73 Ques. Was there a road from the fort to the river?

Ans. Yes; there was.

74 Ques. How near to the church did that run?

Ans. It did not run to the church, but to the river direct.

75 Ques. Was there a road from the fort that went by the church?

Ans. Well, there was a road that passed by the church.

76 Ques. Where did that road lead to, if you know?

Ans. It lead down below, down the Columbia river.

77 Ques. Was there a road from the church down to the river?

Ans. There was no particular traveled way that I took notice of; it was all open.

78 Ques. Was there a storehouse down near the river?

Ans. Yes, there was; it was a kind of a warehouse.

184 79 Ques. How near was that to the river?

Ans. It was right on the bank of the river.

80 Ques. In front of the fort and church or off further?

Ans. In front of the fort, if I am not mistaken.

81 Ques. Was there a great many Kanakas, Sandwich Islanders, working for the Hudson Bay Company?

Ans. Yes; there was.

82 Ques. Where did they live?

Ans. They had their little houses outside the fort.

83 Ques. What did they call their little settlement? Did they call it the vil-age?

Ans. Well, I can't tell; I suppose they would call it a village. I never paid any attention to that.

84 Ques. Where were these houses with reference to the fort?

Ans. They were outside the fort, scattered around the fort, down this way.

85 Ques. When you say down this way, do you mean down towards where the town of Vancouver now is?

Ans. Well, down towards the river, where the Government has it enclosed, was the biggest portion of the Kanaka town.

86 Ques. Was this Kanaka town further away from the fort than the church was?

Ans. I don't know.

87 Ques. Well, you know where the church is now and where the Kanaka town was then. Now, tell us which was nearest to the fort, the church or the Kanaka houses?

Ans. I should think they were a little further from the fort than the church.

185 88 Ques. Was there any stables on the outside?

Ans. I can't say, as I did not take much notice.

89 Ques. You say there were gardens and orchards around the fort; whose were they?

Ans. Well, they belonged to the fort—I suppose to the company—for the use of the inside.

90 Ques. Was there any French Canadians that lived outside the fort?

Ans. There was.

91 Ques. Had they families?

Ans. They had.

92 Ques. Were some of them married to Indian women?

Ans. They were.

93 Ques. Where were their houses?

Ans. They were around outside the fort.

94 Ques. How many people—Canadians and Kanakas and servants of the Hudson Bay Company—were here in the employ of the Hudson Bay Company when you first came here?

Ans. I couldn't tell; I couldn't give an idea.

95 Ques. When did the free families and settlers first come in here?

Ans. We were the first Americans, in 1846, and in 1847 others came.

96 Ques. Did any of these people who came here in 1846 and 1847 settle in and around where Vancouver now is?

Ans. I don't know.

97 Ques. Where did the servants that were in the employ
186 of the Hudson Bay Company that had no families take their meals?

Ans. They generally did their own cooking.

98 Ques. About how many houses where people lived—I mean white people and Kanakas—were there outside the fort within the distance of, say, a half a mile of the fort, in 1846 and 1847 down to the 14th day of August, 1848?

Ans. I couldn't tell how many.

99 Ques. Would you say there were twenty-five?

Ans. There might be twenty; maybe not so many.

100 Ques. Was there a fence around the cemetery?

Ans. There was.

101 Ques. The people who were in the employ of the company that died, they were buried there, were they?

Ans. They were.

102 Q. The graves of Catholics were marked with crosses?

Ans. Yes.

103 Ques. How were the graves of the other persons marked that were not Catholics?

Ans. Just with a plain board.

104 Ques. Persons who were Catholics and who were not Catholics were both buried in this enclosure, were they?

Ans. Yes; they were.

105 Ques. In 1848, when you were married, and up to that time, about how many persons would you say were buried in that cemetery?

Ans. Well, I couldn't tell you.

106 Ques. Was there quite a number?

Ans. I don't remember.

187 107 Ques. How many were Catholics and how many were not Catholics?

Ans. I cannot tell; I didn't take that much notice.

108 Ques. Did the church in which you were married have a fence around it?

Ans. Not in them days.

109 Ques. When was the fence first built around it?

Ans. I can't tell; I didn't exactly know.

110 Ques. Were there any Sisters of Charity here between 1846 and 1848?

Ans. Not here at Vancouver.

111 Ques. Were there any in the neighborhood?

Ans. Yes; there were sisters in Oregon—at Oregon city.

112 Ques. You know the old cathedral, how it was enclosed up to within the last two or three years?

Ans. I do.

113 Ques. Do you know the yard that was around the church?

Ans. I do.

114 Ques. Any persons buried in that yard?

Ans. There was a little grave-yard right by the old convent of the Sisters.

115 Ques. How near was the old convent to the church?

Ans. It just joined.

116 Ques. When was the old convent built?

Ans. The convent was a building that joined the church I was married in.

117 Ques. When did the Sisters first come here?

Ans. I don't remember exactly; it was later that 1850; I don't know whether it was 1855 or 1856.

188 118 Ques. Are not two or three of the Sisters that died buried inside the enclosure in which the church and convent were situated?

Ans. They were; I don't know how many.

119 Ques. Are their graves there yet?

Ans. I could not tell you.

120 Ques. You saw some children baptized in the church?

Ans. Yes.

121 Ques. They were children of the Hudson Bay Companie's servants married to Indian women, were they not?

Ans. Part of them were and part of them were not; part of them were Indians traveling and coming here.

122 Ques. How many full-blooded Indian children did you see baptized in the church?

Ans. I have saw six Indian children baptized at a time in the church; they were full-blooded Indians.

123 Ques. What year was that in?

Ans. That was in 1847.

124 Ques. Were the employés of the Hudson Bay Company, their servants and laborers generally, Catholics?

Ans. A portion of them was. The Canadians and half-breeds were mostly all Catholics; and Indians, too.

125 Ques. What do you mean by half-breeds?

Ans. They were children by white men from Indian women.

126 Ques. Were there many of them?

Ans. There was a good many half-breeds.

127 Ques. You say that Governor Douglas, or the governor, made the servants of the company attend the Catholic church.

189 How do you know that?

Ans. Because he was a strict man and he had them all to attend church on Sundays.

128 Ques. What church—the old cathedral church that you speak of? I mean the Catholic servants.

Ans. Well, those who were Catholics had to go to their own church, the old cathedral, the same church I was married in.

129 Ques. Where did those who were not Catholics—where did he have them attend?

Ans. Inside the fort.

130 Ques. Who preached to them or conducted religious services for them?

Ans. So far as I know, Governor Douglas used to read paryers.

131 Ques. Did Governor Douglas belong to the Church of England?

Ans. Yes.

132 Ques. Where did the soldiers camp who came here in 1849?

Ans. Right on the slope where they are now.

133 Ques. What did they do about putting up houses and quarters to protect them from the weather?

Ans. They cut logs and built houses.

134 Ques. Up in the same locality where they now have their quarters?

Ans. Yes.

135 Ques. Do you recollect the officer in command of these soldiers?

Ans. Yes; I think it was Major Hathaway.

190 Redirect:

136 Ques. How long after you were married did you live near the church or cathedral about which you have testified?

Ans. From 1848 until 1850, in the spring.

137 Ques. Was there any enclosure around the church at any time while you lived there?

Ans. There was not.

138 Ques. How far was your house from the church?

Ans. About 20 feet or more.

139 Ques. Was there any enclosure or church-yard fenced off in connection with the church or adjoining during any portion of the time you lived in that little house near the church?

Ans. There was none around the church, but there was a little garden fenced in around the house I lived in.

140 Ques. Were any of the French Canadians who were here between the time you first came here and the time you were married who had white wives living here with them; if so, how many?

Ans. There was no Canadians married to white wives except myself; my husband was a Canadian.

141 Ques. Has any other denomination than the Catholics ever held religious services in that cathedral in which you were married since you first came to Vancouver?

Ans. Not that I know of.

142 Ques. You spoke in your cross-examination of the orchard and gardens near the fort for the use of those living inside
191 the fort. Were there several of those gardens under different enclosures, or were they and the orchard all under one enclosure?

Ans. They were all under one enclosure.

143 Ques. About how much land, as near as you can judge, was occupied by that orchard and garden?

Ans. Well, I couldn't exactly state how much; there might be ten acres or more, as near as I can remember; it has been so long.

144 Ques. Were any of the Kanakas Catholics?

Ans. No.

145 Ques. Did they have any religious worship or service at all?

Ans. Yes; they did.

146 Ques. Who conducted that service?

Ans. One of the Kanakas, a minister named William.

147 Ques. Where did they hold their services?

Ans. Inside the fort.

148 Ques. Do you know whether it was Christian or pagan?

Ans. Well, I suppose they called themselves Christian.

149 Ques. In what part of the fort, if you know, did the Kanakas have their church services?

Ans. In the same building the Kanakas stopped in.

150 Ques. Was that the same room or a different room in which Governor Douglas read prayers to the Church of England people?

Ans. It was in a different room.

151 Ques. About how long was it after you were married, according to your best recollection, before there was any church-
192 yard enclosed at or adjoining the Catholic cathedral in which you were married?

Ans. I don't know.

152 Ques. When, with relation to the time of your marriage, was the first person buried and the first grave made at or near the Sisters' convent about which you have testified as adjoining the church in which you were married?

Ans. It was after I was married; it was three or four years; maybe five years after I was married.

Recross:

153 Ques. Was the little house that you lived in on the side of the church next to where the town of Vancouver now is or on the side next to the fort or in the rear of the church or in front of it?

Ans. On the side towards town.

154 Ques. There was a garden around that house, was there?

Ans. Yes, and fenced.

155 Ques. Who owned that house when you first went to live there?

Ans. It belonged to my husband.

156 Ques. Who built it?

Ans. He built it.

157 Ques. Did he get permission from the Hudson Bay Company to build it?

Ans. The house was built when I first came to the country, and he was living in it.

158 Ques. You paid rent to no one for it, did you?

Ans. No.

159 Ques. Your husband was in the employ of the Hudson
193 Bay Company? How long had he been in that employ?

Ans. He was. He came out in 1836 with the company, and quit working for them in the spring of 1849.

160 Ques. Was he working by the month or by the year?

Ans. By the year.

161 Ques. Do you know whether he built the house or whether the Hudson Bay Company built the house for him?

Ans. Well, he built the house. I suppose the Hudson Bay Company furnished the material.

162 Ques. What became of the house when you left?

Ans. It was still standing there when we left. We did not sell it to any one.

163 Ques. Was there the usual traveled road in front of the church?

Ans. There was.

164 Ques. Was not the church enclosed at some time after it was built by a fence running around the three sides of it?

Ans. Not as I remember of.

165 Ques. Did you ever see any fence around the church at all?

Ans. Well, I have seen the fence around it.

166 Ques. When did you first notice that fence?
Ans. Well, I can't remember.

CATHERINE PETRAIN.

Plaintiff next introduces as a witness on its behalf HUGH BRYNE, who, being first duly sworn, testifies as follows:

1 Ques. State your name, age, place of residence, and occupation.
Ans. My name is Hugh Bryne; I am 61 years old; farmer, and reside in Clarke county, Washington Territory.

194 2 Ques. How do you spell your sirname?
Ans. The family name as spelled before we scattered was Bierne and now we spell it Byrne.

3 Ques. When did you first come to Vancouver?
Ans. About the middle of May, 1849.

4 Ques. What brought you here?
Ans. I came here as a soldier of the United States Army.

5 Ques. Who was in command of the troops with which you came?
Ans. Captain J. H. Hathaway, brevet major.

6 Ques. How many men or soldiers came here at that time under his command?
Ans. Two companies, a hundred strong or better.

7 Ques. What position, if any, did you hold in the command?
Ans. I was first corporal of Company L, U. S. Artillery, U. S. Army.

8 Ques. Were there any other United States soldiers here when you arrived?
Ans. No; we were the first.

9 Ques. Where did you came or locate when you first came here?
Ans. We camped on the hill north of the river.

10 Ques. How long did you remain in tents after you got here?
Ans. Probably three or four months.

11 Ques. When you left the tents how, if at all, did you shelter?
Ans. We was moved into a building that was supposed to belong to the Hudson Bay Company.

12 Ques. Did the Hudson's Bay Company have a fort here at that time?
Ans. They had.

195 13 Ques. In what direction from the fort and how far from it was the house into which you say you moved?
Ans. It was northeast and about 200 yards from the fort.

14 Ques. Was that house standing here when you first arrived?
Ans. Yes.

15 Ques. Did the soldiers afterward or at any time build any houses or camps or barracks for themselves; and, if so, where were the first built?
Ans. The first building was quarters for the officers, built by the soldiers, log houses, immediately after we came.

16 Ques. Do you know the ground that is now occupied by the military at or near Vancouver and claimed by the Government as a military reservation?

Ans. I do.

17 Ques. State whether or not those log houses erected by the soldiers for the officers were on a portion of the same ground at present occupied by the military and claimed by the Government as a military reservation at Vancouver.

A. Yes, sir; they were.

18 Ques. State whether the fort of the Hudson Bay Company was on a part of the same ground now claimed as a part of the military reservation.

Ans. Yes; it was.

19 Ques. In what direction and how far from the fort were
196 those log houses located that were erected by the soldiers?

Ans. Probably about 300 or 400 yards north, about.

20 Ques. Was there any church building on that same ground which is now claimed by the Government as a military reservation when you first reached Vancouver?

Ans. There was.

21 Ques. To what denomination did it belong?

Ans. It was called the Roman Catholic church.

22 Ques. State whether or not you ever attended religious service or worship in that church; and, if so, when you first attended such service.

Ans. I did; in the month of June, 1849.

23 Ques. By whom was that service conducted, if you remember?

Ans. By a Roman Catholic priest—a Frenchman, I think.

24 Ques. How frequently afterward did you attend church service there and what denomination conducted the service?

Ans. I went to church generally every Sunday except when I was on guard.

25 Ques. How many other persons besides yourself, if any, attended the same services, and what character of persons were they?

Ans. They were United States soldiers and all kinds, half-breed, Canadian men and their wives, Indian women and their children, and some Indians.

26 Ques. How far and in what direction from the Hudson Bay Company's fort was that church located?

Ans. It was about 300 yards northwest by west.

27 Ques. What kind of furniture, if any, was in that church when you first visited it?

197 Ans. There was an altar, crucifix, the image of our Saviour and some sacred pictures and crosses, and benches to sit on.

28 Ques. State whether or not that church or any part of it still stands on the same ground.

Ans. Yes; it still stands on the same ground.

29 Ques. State whether or not there was any cemetery or graveyard at or near Vancouver when you arrived here in May, 1849.

Ans. There was.

30 Ques. State whether or not that cemetery was located on any part of the ground now claimed by the Government as its military reservation at Vancouver?

Ans. It was.

31 Ques. How far and in what direction was it from the fort?

Ans. It was 2 or 3 hundred yards or better, as near as I could judge, northwest.

32 Ques. When were you first in that grave-yard or among the graves there?

Ans. Well, it was, I believe, in July or August, 1849. I was in charge of a party burying a man who was drowned in the Columbia river.

33 Ques. State what, if anything, you saw there at that time to mark or designate the graves.

Ans. Well, I didn't see any remarkable thing except crosses at the head of the graves.

34 Ques. State, if you know, how, if at all, those Roman Catholic graves are usuall- marked or designated.

Ans. They are usually marked by a cross.

35 Ques. State whether you are still connected with the U. S. Army.

Ans. No; I am not.

198 36 Ques. When did you leave it?

Ans. I left it the 7th day of November, 1849.

37 Ques. How did you get out of the army?

Ans. I was discharged here by civil authority in consequence of a mistake. I enlisted for the Mexican war, and they got me in for five years by mistake. I sent for my discharge, and got it.

38 Ques. Was there any enclosure of cultivated land on the ground now claimed by the United States as a military reservation at Vancouver when you first reached here?

Ans. There was.

39 Ques. Where was it located, and how much was there of it, and what was cultivated upon it, if you know?

Ans. It was west and north of the stockade; about 4 acres; there was fruit trees of various kinds, potatoes, cabbage, vegetables, and stuff.

40 Ques. Was there any other field or enclosure on the military reservation ground when you first got here?

Ans. No; I think not.

Cross-examonation:

41 Ques. You knew where the church was situated?

Ans. Yes.

42 Ques. Did you know a lady who was living here at that time named Catherine Petrain?

Ans. Yes.

43 Ques. Where did she live?

Ans. She lived northwest of the stockade when I first saw

199 her, in a house between the stockade and church.

44 Ques. Was there a garden enclosed there where the house was?

Ans. (This and the previous question and answer are objected to

as not proper cross-examination in regard to anything testified to in the examination-in-chief.)

Ans. Not that I remember; there might be.

45 Ques. Who was that man that got drowned?

Ans. A citizen of the United States; his name was Lattie, and, I think, Charles.

46 Ques. Was he a Scotchman?

Ans. Yes, sir.

47 Ques. Member of the Catholic church?

Ans. No, sir.

48 Ques. When you buried him in the cemetery you put no cross over his grave?

Ans. No, sir.

49 Ques. Why didn't you occupy the fort of the Hudson Bay Company when your soldiers came here?

Ans. I believe it would have been contrary to the treaty between the two nations, England and the United States.

50 Ques. Who was in charge of the Hudson Bay Company at that time?

Ans. Mr. Ogden, governor of the Hudson Bay Company.

51 Ques. Where did he live?

Ans. He lived inside the stockade claimed by the Hudson Bay Company.

52 Ques. Was he living there in 1849, when you were discharged from the army?

Ans. He was.

200 53 Ques. Did the Hudson Bay Company have a store and trading place inside the fort at that time?

Objected to by plaintiff's counsel as not proper cross-examination, and plaintiff's counsel now admits, in order to save time, that there was everything inside the stockade that has been testified to by plaintiff's previous witnesses, St. Germain, Marcel Bernier, and Mrs. Petrain.)

Ans. They had.

54 Ques. Did they have a store when you came here in there?

Ans. They had.

55 Ques. Were there any people living on the outside of the fort—the workmen and servants of the Hudson Bay Company?

(Objected to as not preper cross-examination and as immaterial.)

Ans. Yes; there was.

56 Ques. What direction were they living from the fort?

(Objected to same as the last question.)

Ans. They were living southwest by south, the biggest part of them.

57 Ques. How far from the fort?

(Same objection.)

Ans. About 400 yards.

58 Ques. What nationalities were these people?

(Same objection.)

Ans. Biggest part of them was Canadians, some half-breeds, and Indians, too, and Kanakas also.

59 Ques. How many dwelling-houses were there, about?

(Same objection.)

201 Ans. I cannot tell. There was two Scotchmen who lived in that direction, too—one James Johnson and one George Foster.

60 Ques. What were their houses they lived in made of or built of?

(Same objection.)

Ans. They were made of slabs drove down and roofed with slabs, and some of them were houses made of lumber.

61 Ques. Any made of hew-d logs, or log houses?

(Same objection.)

Ans. I wouldn't be positive.

62 Ques. What was the appearance of these houses as to their age?

(Same objection.)

Ans. Well, their appearance was black with age; old slabs, never painted or nothing.

63 Ques. Did the men who had families and worked for the Hudson Bay Company live in these houses?

(Same objection.)

Ans. There was one or two of them working for the Hudson Bay Company when I came here—the two white men mentioned and I do not know how many of the half-breeds and Kanakas. There might have been some of the Canadians. I could not talk with them. The biggest part of the Canadians had been discharged from the Hudson Bay Company and were citizens of the United States and living in homes by themselves.

64 Ques. Where were these Canadians who were discharged living?

(Same objection.)

Ans. One of them was living about 1½ miles west of Vancouver named Proulx. His children are living there yet.

202 65 Ques. Were any of them living where Vancouver now is or where the reservation is?

(Same objection.)

Ans. Yes; there was a good many Canadian Frenchmen living here at Vancouver at the time I came here.

66 Ques. Where were they living?

(Same objection.)

Ans. At the village where I have said it was before; southwest by south of the fort.

67 Ques. Where these people lived was generally called the village, was it?

(Same objection.)

Ans. I cannot say what it was called generally. I just called it that myself.

68 Ques. You know what a village is, don't you?

(Same objection.)

Ans. Yes.

69 Ques. Was that village within the lines of the present military reservation?

(Same objection.)

Ans. It was.

Redirect:

70 Ques. Were these Canadian Frenchmen, of whom you have spoken, generally married men? And, if so, of what nationality were their wives?

Ans. They were all married men with the exception of one or two young fellows. Their wives were Indian women. There
203 was only one white woman that I know married to a Canadian when I came here, and that was Mrs. Petrain.

Recross by consent:

71 Ques. How far and in what direction was the church from the fort?

Ans. It was, I think, about 300 yards northwest by west.

72 Ques. How far and in what direction was the church from the grave-yard and cemetery where you buried the Scotchman?

Ans. The church was, I think, about 200 yards southwest by south from the cemetery.

HUGH BYRNE.

The further taking of testimony herein is now adjourned by consent of parties until to-morrow morning at 9 o'clock.

W. BYRON DANIELS, *Referee.*

The end of volume 1.

204 AUGUST 4TH, 1887.

The same parties, by their attornies, appeared to-day pursuant to adjournment of yesterday.

The plaintiff next introduces as a witness on its behalf AUGUST ROCHON, who, being first duly sworn, testifies as follows:

(This witness testified through a sworn interpreter—W. Byron Daniels, referee.)

1 Ques. State your name, age, place of residence, and occupation.

Ans. My name is August Rochon; aged 74 years; reside at To

ledo, Lewis county, Washington Territory, and by occupation a farmer.

2 Ques. When did you first come to Vancouver or the place where this town of Vancouver now is?

Ans. In the year 1838.

3 Ques. In what month?

Ans. In the month of November.

4 Ques. Did you come in company with any one else; and, if so, with whom?

Ans. I came with two priests, F. N. Blanchet and Modeste Demers.

5 Ques. Where did you come from when you came here?

Ans. From Montreal, Canada.

6 Ques. In what capacity did you come?

Ans. I was hired by them, the priests.

7 Ques. How did you come—by land or water?

Ans. Came by batt-aux and sometimes by land—across the continent.

205 8 Ques. Did you pay anything or did any one pay anything for you in making your journey for transportation or otherwise?

Ans. I did not pay anything myself and do not know whether the priests paid anything for me or not.

9 Ques. Who paid the expenses of the trip, if you know?

Ans. I don't know.

10 Ques. Who had charge of the party?

Ans. Mr. F. W. Blanchet.

11 Ques. How many persons were there in the company and who were they?

Ans. I do not know, but I think there was over a hundred. I don't know their names.

12 Ques. What company was it, then, that Father Blanchet had charge of—the whole company or only your own, yourself, and the two priests?

Ans. There was a boss to the whole company. Father Blanchet was in charge of me and the rest was in charge of the boss; the boss was in charge of the whole business.

13 Ques. You say Father Blanchet hired you. What wages, if any, did he pay you?

Ans. He paid me one hundred dollars per year.

14 Ques. Were you ever in the employ of the Hudson Bay Company?

Ans. Never.

15 Ques. How long did you remain at Vancouver when you first arrived here?

Ans. Two weeks.

206 16 Ques. Were there any religious services held by any one here during those two weeks?

Ans. Yes; they held mass.

17 Ques. Where?

Ans. In the fort.

18 Ques. Who was present at that mass?

Ans. The people of the company—the Canadians. I don't know who else.

14 Ques. State whether or not there were any Indians, men or women, present at that mass.

Ans. Yes; there were Indians present at every mass.

20 Ques. Did the priests speak to or converse with the Indians present?

Ans. Yes; they spoke to them by an interpreter.

21 Ques. What did he say to the interpreter?

Ans. They spoke to them of religion.

22 Ques. In what language?

Ans. In French; and the interpreter talked to the Indians in jargon.

23 Ques. Did you hear what the priests said to the interpreter on those occasions?

Ans. I heard them time and again, but was not continually present because I attended to the things around the place.

24 Ques. State whether or not the priests or either of them, during that two weeks, baptized any one; and, if so, what character of persons did they baptize?

Ans. Yes; they baptized some, principally the children, and it was towards the last of the second week they baptized grown
207 persons.

25 Ques. Of what nationality were the persons they thus baptized?

Ans. Principally people of this country, Indians.

26 Ques. Were there any marriage ceremonies performed by the priests during that two weeks?

Ans. They performed three marriages.

27 Ques. Were there any white women here at that time?

Ans. They were marrying the white folks to the Indian women. I never saw any white women here at that time.

28 Ques. To what place did you go upon leaving Vancouver at the expiration of that two weeks?

Ans. To Cowlitz.

29 Ques. State whether or not there were any white persons at or near the Cowlitz when you went there at that time.

Ans. Outside of the Hudson Bay Company there was only three white settlers.

30 Ques. Of what nationality were they—the three white settlers?

Ans. From Canada.

31 Ques. State whether or not there were any Indians at or near Cowlitz at that time.

Ans. Yes; plenty of them.

32 Ques. What did the priests do on arriving at Cowlitz?

Ans. They began immediately to instruct the people.

33 Ques. How near to the place where the priests then stopped was the nearest Hudson Bay Company's establishment?

Ans. About a quarter of a mile.

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Ans. I don't know.

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Ans. I do not know, but I think there was over a hundred. I don't know their names.

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Ans. There was a boss to the whole company. Father Blanchet was in charge of me and the rest was in charge of the boss; the boss was in charge of the whole business.

13 Ques. You say Father Blanchet hired you. What wages, if any, did he pay you?

Ans. He paid me one hundred dollars per year.

14 Ques. Were you ever in the employ of the Hudson Bay Company?

Ans. Never.

15 Ques. How long did you remain at Vancouver when you first arrived here?

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Ans. In French; and the interpreter talked to the Indians in jargon.

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Ans. To Cowlitz.

29 Ques. State whether or not there were any white persons at or near the Cowlitz when you went there at that time.

Ans. Outside of the Hudson Bay Company there was only three white settlers.

30 Ques. Of what nationality were they—the three white settlers?

Ans. From Canada.

31 Ques. State whether or not there were any Indians at or near Cowlitz at that time.

Ans. Yes; plenty of them.

32 Ques. What did the priests do on arriving at Cowlitz?

Ans. They began immediately to instruct the people.

33 Ques. How near to the place where the priests then stopped was the nearest Hudson Bay Company's establishment?

Ans. About a quarter of a mile.

208 34 Ques. What kind of an establishment did the company have there?

Ans. They had made a few houses of logs.

35 Ques. Was there any fort or trading post there?

Ans. Yes; there was a house built on purpose for trade; no fort.

36 Ques. Who lived in the other houses or how were they occupied besides the houses that was built to trade in?

Ans. The clerks of the manager there.

37 Ques. Who was the manager there?

Ans. Mr. Todd.

38 Ques. Did both the priests go to Cowlitz at that time?

Ans. No; one staid here and the other went to Cowlitz.

39 Ques. Which one went to Cowlitz?

Ans. Father Blanchet.

40 Ques. What did you do, if anything, upon reaching the Cowlitz?

Ans. Took an ax and went to the woods to make rails.

41 Ques. What were you making rails for?

Ans. To fence a piece of land to sow.

42 Ques. Did the Hudson Bay Company have anything to say about your fencing the land; and, if so, what?

Ans. No; not when they fenced the land. The Hudson Bay Company first gave a strip of land six acres wide, and then when I made the rails on land outside this piece six acres wide they found fault with me, but afterwards gave that land also to the priests.

43 Ques. Who, if any one, measured the six acres wide and how was it measured?

209 Ans. Joseph McLaughlin, the clerk of the Hudson Bay Company, and I measured it by stepping it off.

44 Ques. How much ground did you fence in at that time?

Ans. The first year about 20 acres.

45 Ques. What, if anything, was done inside the enclosure after you fenced it?

Ans. We plowed and then sowed it; I did.

46 Ques. What did you sow?

Ans. Peas and wheat.

47 Ques. Where did you get your seed from?

Ans. Of the inhabitants or settlers who were there.

48 Ques. State, if you know, whether those settlers belonged to any church; and, if so, to what church?

Ans. They belonged to the Catholic church.

49 Ques. Where did you get your food from the time you went there until you raised it?

Ans. I was put with a settler and boarded there.

50 Ques. Who, if any one, paid for your board?

Ans. I don't know.

51 Ques. Did the Hudson Bay Company assist you at all in fencing, plowing, or cultivating that 20 acres of land?

Ans. No.

52 Ques. Where did Father Blanchet board or get his food from

the time you first went there until you raised grain and peas of your own?

Ans. With Mr. Plomondon, a settler.

210 53 Ques. State whether the Hudson's Bay Company exercised any authority or control over the priests after you arrived here as to where they should go or when they should go or where they should stay.

Ans. No.

54 Ques. How long did you remain at Cowlitz after you reached there before leaving there permanently?

Ans. More than two years; we arrived there in December, and I left in March, two years after.

55 Ques. Were you at Vancouver at any time during that two years; and, if so, how frequently?

Ans. Yes; two or three times every year. I went five times while I was there.

56 Ques. What did you come here for?

Ans. I came here to the blacksmith shop; to the store and to the mill.

57 Ques. What, if anything, did you bring to the mill?

Ans. Wheat.

58 Ques. What did you do with the flour when it was ground?

Ans. Took it along and ate it.

59 Ques. State if you know where Father De Mers was during that two years while you were at the Cowlitz.

Ans. In the summer he used to go up north towards Frazer river; in the winter he used to come to Cowlitz.

60 Ques. Did you attend church at Vancouver on the occasion of either of those five visits you made here?

Ans. No, I never came on Sunday.

61 Ques. Where did you go when you left Cowlitz?

211 Ans. To Oregon. I came to Vancouver with the Indians and went to Oregon with Mr. Mansom, one of the managers of the Hudson Bay Company.

62 Ques. Did you leave the employ of the priests when you left Cowlitz?

Ans. No; I was hired by them and worked three years more.

63 Ques. At what time after reaching Vancouver, in 1838, did Father De Mers first come to the Cowlitz?

Ans. He was sick here the first winter, and Blanchet was only traveling then, and it was about the next April that De Mers came to Cowlitz.

64 Ques. State whether you ever accompanied either of the priests on any missionary tours among the Indians during that two years while at the Cowlitz.

Ans. No.

65 Ques. Were you ever married; and, if so, when?

Ans. Yes, in the year 1842.

66 Ques. By whom were you married; who performed the ceremony?

Ans. Father Blanchet.

67 Ques. State if you know where the priests received any money or supplies from during the two years you were at Cowlitz.

Ans. They received provisions from the settlers, but I have no knowledge of their getting money.

68 Ques. Did you yourself during that two years contribute anything to the support of the priests; and, if so, what?

Ans. Yes; I gave twenty dollars a year of my wages.

212 69 Ques. Did you return to Vancouver at any time after you went to Oregon, and, if so, when, during the time you were in the employ of the priests?

Ans. Yes; I came back whenever the priests had need of me. The last time I came back was in 1845, I think.

70 Ques. Were there any other priests in this country besides Blanchet and De Mers at the time you got married?

Ans. Not when I got married.

71 Ques. How long after you were married before any other priests came?

Ans. I don't remember.

72 Ques. Did any of the priests come — the country during the five years you were in the employ of Father Blanchet?

Ans. Yes; Father- Bolduc and Langlois.

73 Ques. Where did they stop, if you know, when they arrived here?

Ans. One went to the Cowlitz and the other went to Oregon and come to the fort here at Vancouver.

74 Ques. Did you, during the five years you were in the employ of Father Blanchet, accompany him on any missionary tour or expedition; and, if so, how often and to what places?

Ans. Yes; I went often, but can't say how often; went around here up to the Cascades and below to the Chinook Indians.

75 Ques. What, if anything, did Father Blanchet do among the Indians on those trips?

Ans. He was instructing them; taught them their prayers and baptized them.

213 76 Ques. State whether or not there was any cemetery or grave-yard here at any time during the five years you were in the employ of Father Blanchet.

Ans. Yes.

77 Ques. How do you know?

Ans. I saw it. I was in it.

78 Ques. State whether or not there were any Catholic graves in the cemetery.

Ans. Yes.

79 Ques. How do you know?

Ans. Because the priests buried one in my presence.

80 Ques. How, if at all, were the graves in the cemetery marked?

Ans. By crosses. Some had rocks to mark the place; not much ceremony at that time.

81 Ques. State, if you know, whether those settlers at the Cowlitz were in the employ of the Hudson Bay Company.

Ans. They had been. They were not when I went there.

82 Ques. State, if you know, whether any persons were allowed to occupy land as settlers or otherwise at the Cowlitz without the permission of the Hudson Bay Company when you came here.

Ans. The company told them to come and take land there.

83 Ques. Do you know in what year the first Catholic priest was permanently located at Vancouver?

Ans. I don't know.

84 Ques. Was it before or after the five years which you were in the employ of Father Blanchet?

214 Ans. They were the first priests; they remained here as they remained everywhere; they did not come alone for Vancouver, but for the whole country.

85 Ques. State, if you know, the name of the first priest who stopped at Vancouver all the time or most of his time.

Ans. Father Delavoux.

86 Ques. Was that after the five years that you was in the employ of Father Blanchet?

Ans. No; I was working yet for Father Blanchet.

Cross-examination:

87 Ques. What was the name of the man who was the boss of the company that started from Montreal which you and Fathers Demers and Blanchet were a part of to come to Oregon?

Ans. Al. Grave. He was a Scotchman or an Englishman.

88 Ques. How many men were in the company all together?

Ans. I don't know, but about 100.

89 Ques. What were these other men coming out here for?

Ans. They came here to work for the company.

90 Ques. What company?

Ans. The Hudson Bay Company.

91 Ques. What nation of people were these 100 people?

Ans. Some from Canada and some from Scotland.

92 Ques. Were the Canadians generally Frenchmen?

Ans. Canadians from Canada; they spoke French.

93 Ques. Which was the most in number?

Ans. The Canadians.

94 Ques. What was their religious belief generally?

Ans. Catholics.

215 95 Ques. What did Father Blanchet hire you to do?

Ans. To work—what he had to do.

96 Ques. When he hired you did he tell you what kind of work you would have to do?

Ans. He did not tell me what.

97 Ques. What did he say to you when he hired you, as near as you recollect?

Ans. Father Blanchet tole me I was to go with him on missions to the Indians and to do all the work that was to be done around.

98 Ques. Did he tell you who was going with him on the mission, and what did he say about that?

Ans. He did not know who at the time.

99 Ques. When did you first find out who was going?

Ans. Only just when we left with the canoes.

100 Ques. How many of the company that started reached Vancouver?

Ans. Don't know; most of them did.

101 Ques. When you got here, in 1838, who was the chief man of the Hudson Bay Company at this place?

Ans. Mr. Douglas.

102 Ques. Do you know for what term of years the Hudson Bay Company had those men employed who came out when you did?

Ans. I don't know.

103 Ques. Do you know what period of time they generally hired for?

Ans. By the year—three years at a time.

104 Ques. When you got here what did you see as regards buildings and houses about this place?

216 Ans. All kinds of buildings and stores—the fort that was built and houses built all around outside. The laboring men were outside and the superintendants and clerks inside the fort.

105 Ques. In that two weeks in 1838, the year you got here, was that the time you saw the man buried in the grave-yard by the priest?

Ans. No; afterwards.

106 Ques. Did you see the grave-yard here when you first came here during that two weeks?

Ans. No.

107 Ques. Do you know where they buried the Hudson Bays Company's servants who died here at Vancouver before you came here?

Ans. I don't know.

108 Ques. How old did the buildings appear to be when you got here, in 1838?

Ans. There was an old fort at one end and another one at the other; some of the houses were old and some new.

109 Ques. Was there many half-breed children here when you came?

Ans. Yes; there were some.

110 Ques. Were there some Kanakas from the Sandwich islands here working for the Hudson Bay Company when you came here?

Ans. Yes; there were many.

111 Ques. Can you give any idea how many Canadians, Scotchmen, Kanakas, Englishmen, all together, were working for the company here when you came here?

Ans. I can't tell.

217 112 Ques. What were these people generally doing for the company?

Ans. Farming, cutting wood, making rails; they were employed here and there farming and building.

113 Ques. Were there hunters and trappers here, to-?

Ans. Yes; they had some.

114 Ques. Was the Hudson Bay Company engaged in trading with the Indians?

Ans. Yes.

115 Ques. What did the company get from the Indians and hunters in exchange for their goods?

Ans. Furs and pelts, and the Indians bought also with money when they had it.

116 Ques. Where *the* did the Hudson Bay Company send their furs and pelts to?

Ans. To England.

117 Ques. In the five years that you worked for Father Blanchet was there any house or church put up at Cowlitz for his use?

Ans. They built a log house and used it as a church.

118 Ques. What year was that in?

Ans. Year after we got there.

119 Ques. Who built the church?

Ans. I did.

120 Ques. Were you there when the church was blessed?

Ans. Yes.

121 Ques. Who was there at the blessing of the church?

Ans. Father Demers.

122 Ques. Where was Father Blanchet at that time?

218 Ans. He was at St. Paul, in what is now Marion county, Oregon. He was sometimes here at Vancouver and sometimes at Cowlitz and sometimes at St. Paul.

123 Ques. Did they have a church at St. Paul at that time?

Ans. Yes.

124 Ques. Who was the priest who had charge at St. Paul?

Ans. Father Blanchet.

125 Ques. When was the church built at St. Paul?

Ans. I don't know; it was built when I came here.

126 Ques. Where the church is built now at Cowlitz is near the same place where their church now is?

Ans. Very near by; it is on the same tract of land.

127 Ques. How much land do they own there?

Ans. I don't know; I am not able to tell the number of acres. It is nine acres wide across the prairie; runs a mile and more across the prairie and into the woods.

128 Ques. How long has the church owned the land?

Ans. From the time they got there.

Objected to by defendants' counsel because not the best evidence.

129 Ques. What kind of country was around there at Cowlitz when you went there?

Ans. Both prairie and woods.

130 Ques. About how wide and long is the prairie?

Ans. Several miles long, and narrow.

131 Ques. Do you talk English so that we can understand you?

Ans. Not enough to be understood.

219 132 Ques. How many years were you employed by Father Blanchet before you started to come here?

Ans. I was not employed until I was hired to come here, and then

I was hired for 3 years, then for 2, and then one year at a time for five years—ten years in all.

133 Ques. Where did you live after you left the Cowlitz?

Ans. I went from Cowlitz to St. Paul with Father Blanchet, and staid there generally.

134 Ques. Where did you then go?

Ans. To New York State, Franklin county, and lived there 22 years and then came back here.

135 Ques. Had the priests a farm at St. Paul?

Ans. Yes, sir.

136 Ques. How large was it?

Ans. About a mile square.

137 Ques. How much of that did they farm while you was there?

Ans. It was not surveyed; I cannot tell, but I think about 30 acres cultivated in wheat, oats, and peas.

138 Ques. Is St. Paul's mission or church on what is known as French prairie, in what is now the State of Oregon?

Ans. Yes; in Marion county.

139 Ques. Were there many settlers around there when you first went there?

Ans. Not many when I came there first.

140 Ques. What country were those settlers from?

Ans. Mostly from Canada.

220 141 Ques. Of what religious belief were they?

Ans. Catholic.

142 Ques. When did the settlers first begin to come into that prairie generally?

Ans. There was about fifteen Canadians there when we got there, and Americans further up. Some settlers came after that every year.

143 Ques. By fifteen settlers you mean fifteen families?

Ans. Yes; I mean fifteen Canadian men married to Indian women, having families and farms.

Redirect:

144 Ques. In what year did you return from here to the States?

Ans. In 1850.

145 Ques. At the time you left here, in 1850, to return to the States was there any Catholic church in what is now called Washington Territory nearer to the Cowlitz than Vancouver church?

Ans. No; there was none nearer than Vancouver from Cowlitz.

146 Ques. How far is it from Cowlitz to Vancouver?

Ans. I don't know; it took us three or four days in canoes.

147 Ques. What was the nearest Catholic church in what is now called Oregon when you left here, in 1850?

Ans. At Oregon City.

148 Ques. Do you know how far it is from Vancouver to Oregon City?

Ans. I don't know.

149 Ques. Did you see very few or very many Indians here

221 at Vancouver when you first got here?

Ans. Many.

150 Ques. Where did the Indians camp when they were here?

Ans. Everywhere along the river.

151 Ques. Where did the priests consider their headquarters from the time you came here until you left?

Objected to by defendant's counsel.

Ans. Here in Vancouver.

152 Ques. How do you know that?

Ans. Because they were oftener here than at other places.

153 —. At what other places besides Vancouver, Cowlitz, Oregon City, and St. Paul were any Catholic churches built in Oregon or Washington Territory in 1850, when you went back to the States?

Ans. I don't think there was any other.

154 Ques. Did the Hudson's Bay Company have any establishment at St. Paul or Oregon City?

Ans. Yes; two miles down the river from St. Paul, and the company had stores in Oregon City.

155 Ques. At any of the five times at which you say you came back to Vancouver from Cowlitz, during the first two years you lived at Cowlitz, was there any Catholic priests here at Vancouver?

Ans. Yes; I know, because I had to see and talk with them when I came.

156 Ques. Which of the priests were here on those occasions?

Ans. Father Demers and Father Blanchet, each one in his turn.

222 157 Ques. Were you ever here at Vancouver from the time you first came, in 1838, until you returned, in 1850, when there was no Catholic priests at all here?

Ans. There was always one after Bishop Blanchet came back from Rome until I went East.

158 Ques. After Father Blanchet went to St. Paul first, did he reside there permanently until he went to Europe?

Ans. He made it his stopping place, but he was always going to missions.

159 Ques. To what missions did he go?

Ans. Among the Indians and, of course, here at Vancouver, too, and to Cowlitz; but not to Cowlitz after he came back from Rome.

160 Ques. Did he come to Vancouver after he came back from Rome?

Ans. Yes.

161 Ques. At what place did Father Blanchet spend the greatest portion of his time after he went from Cowlitz to Oregon before he went to Rome?

Ans. At St. Paul.

162 Ques. How frequently did he leave there on mission tours and how long would he be gone?

Ans. Three weeks, a month, and more he would be absent at a time.

163 Ques. Between the time Father Blanchet went to St. Paul

and the time he went to Rome, was he absent from St. Paul on missionary tours many or few times?

Ans. Often.

Recross-examination:

223 164 Ques. What year did Father Blanchet go to Rome?

Ans. I can't tell the year; it was after I was married.

165 Ques. Where were you working at that time?

Ans. I was working at the mill, two miles from St. Paul's church.

166 Ques. Was it before or after the first five years of your service with Father Blanchet that he went to Rome?

Ans. In the last two years of my first five years' service; can't say whether the last year or next to the last.

167 Ques. What priests were kept here when Father Blanchet went to Rome?

Ans. When Father Blanchet left for Rome there was no resident priest during that time here, but Father Demers or Father Langlois came here and Father Bolduc was residing in Cowlitz, and the two first ones alternately visited this place to preach.

168 Ques. What other places did Fathers Blanchet and Demers preach besides Vancouver and Cowlitz?

Ans. At St. Paul and wherever they could find enough Indians, and at Oregon City.

169 Ques. Did they have a house at Oregon City?

Ans. Yes.

170 Ques. Did they have a church at Oregon City?

Ans. No.

171 Ques. Did they have a church at St. Paul?

Ans. I did not see myself until I went there 2 years after, but I heard them say so, because the settlers came to get Father Blanchet to go there.

224 172 Ques. Did they have a church at Vancouver during that two years?

Ans. No; they had a house in the fort.

173 Ques. Cowlitz and St. Paul were the only places that you know of in that two years where there was Catholic churches in this country?

Ans. Yes; there was only two churches, but here in Vancouver they said mass in the house that the company let them have.

174 Ques. When Father Blanchet came back from Rome he was a bishop, was he?

Ans. Yes.

175 Ques. Where did he live, then, after that?

Ans. Oregon City.

176 Ques. How many years was it from the time Father Blanchet left to go to Rome that he got back?

Ans. I think about three years.

177 Ques. Where did the priests consider their headquarters the first two years?

Ans. Vancouver.

178 Ques. Why did they consider Vancouver?
Ans. I don't know.
179 Ques. How, then, do you know that they considered it their headquarters?
Ans. Because they were oftener here.
180 Ques. You were here only five times in that two years. How do you know that they were oftener here?
Ans. Because they told me they were here; they told me in their own house and I saw them when I came here.
181 Ques. Where were you living then?
Ans. At Cowlitz.
182 Ques. Did they start from Cowlitz to come here?
Ans. They sometimes met here.
183 Ques. Who sometimes met here?
Ans. The two priests.
184 Ques. Did they not sometimes meet at Cowlitz?
Ans. No; but afterwards they met at St. Paul.
185 Ques. Father Blanchet preached at Cowlitz when his turn came?
Ans. Yes.
186 Ques. Father Demers preached at Cowlitz when his turn came?
Ans. Yes.
187 Ques. How often did theyr turns come?
Ans. Sometimes a month, sometimes more. Father Demers staid in the Cowlitz in the winter; time then the other did not come there.
188 Ques. Which one of the priests preached at Cowlitz the first winter?
Ans. Father Blanchet.
189 Ques. Which one of them preached at the Cowlitz the second winter?
Ans. Father Demers.
190 Ques. Did they build a house at the Cowlitz for the priests?
Ans. Yes; that was used as a house and church.
191 Ques. When did they first commence building that?
Ans. In 1839.
192 Ques. Who superintended the building of it?
Ans. I did.
193 Ques. Who told you to build it?
Ans. The priests. The settlers helped me to put on the logs.
194 Ques. How long was this house, and — wide?
Ans. It was twenty feet by thirty.
195 Ques. Did it have an altar and benches in it, and confessional?
Ans. Yes; but no confessional.
196 Ques. Where did they confess in that church?
Ans. Of course, in the church, near the communion rail.

Redirect:

197 Ques. Where did Demers preach the first winter you got here?

Ans. Here at Vancouver, in the fort.

Recross:

198 Ques. Was the Catholic church at Cowlitz in 1850, when you left for the States?

Ans. Yes. It was another one that they built—the settlers.

199 Ques. Who preached in it?

Ans. I think Father Pretot.

200 Ques. Did it take the place of the old one?

Ans. Yes; the same congregation attended in it; they built it alongside the old one and tore the old one down.

201 Ques. You say you worked at the mill at St. Paul. What kind of a mill was it?

Ans. It was a grist and saw mill.

227 202 Ques. Who did it belong to?

Ans. To the mission of St. Paul.

his
AUGUST x ROCHEN.
mark.

Witness his mark:
ERN KANTEN.

The testimony of this witness was interpreted from French into English by Ern Kanten.

Plaintiff next introduces as a witness on its behalf MARY PROULX, who, being first duly sworn, testifies as follows:

1 Ques. State your name and place of residence.

Ans. Mary Proulx; I live below Vancouver about two miles.

2 Ques. Have you ever been married?

Ans. Yes; I was married in the Catholic church.

3 Ques. At what Catholic church were you married?

Ans. In this old Catholic church here.

4 Ques. Was the Hudson Bay Company located here at the time you were married?

Ans. Yes.

5 Ques. Was the church in which you were married inside or outside the company's fort?

Ans. Not in the fort, but outside of it.

6 Ques. By whom was the marriage ceremony performed?

Ans. By Father Blanchet, who is now dead.

7 Ques. What was the man's name to whom you were married?

Ans. Charles Proulx.

228 8 Ques. Of what nationality are you?

Ans. I am a Chahalis Indian woman.

9 Ques. How old were you when you were married?

Ans. Twenty (20) years old.

10 Ques. How long after that before you had any children?

Ans. Ten years.

11 Ques. How old is the first child you had?

Ans. He is more than 30 years old; perhaps not quite two years more.

12 Ques. Where were you living when the church in which you were married was built?

Ans. Between where the church now is and the river.

13 Ques. Who built the church in which you were married?

Ans. A man named Findley, Charles Baron, and Charles Pefill.

14 Ques. Who preached in the church after it was built, if any one?

Ans. Father Demers preached in it first.

15 Ques. Did he preach anywhere in Vancouver before he preached in that church?

Ans. It is so long ago that I don't remember the place. Before that church was built he traveled all around and preached to the Indians and Canadians.

16 Ques. Did he preach inside the fort any before the church was built?

Ans. Yes; in the fort, where he used to stop.

17 Ques. What else did he do besides to preach, if anything?

Ans. He instructed the Indians and baptised them, and when he found Indians who were poor he helped them and brought them to the house, even.

229 18 Ques. What did he teach them?

Ans. He taught them not to steal, not to do any harm to any one, and when anybody asked them for anything to eat to give it to them.

19 Ques. How many people, generally, went to church when the priest taught?

Ans. Nearly everybody. All the Indians and small children.

20 Ques. How did the priests treat the Indians?

Ans. They treated them well, and all the Indians liked the priests; but the Americans didn't treat the Indians well.

21 Ques. Did the prie-ts preach to the Indians or teach them at any other place besides the church?

Ans. Oh, yes; everywhere; on the other side of the river, in the woods, and all around.

22 Ques. How often did you attend church here in Vancouver?

Ans. I went always, every Sunday.

23 Ques. Where did the Indians camp when they came here to trade with the Hudson Bay Company?

Ans. All around Vancouver it was woods; then the first clearing was up where the fort was.

24 Ques. Did the priests go around among the Indians here and talk and preach to them?

Ans. Yes; they took an interpreter along and talked to him, and he to the Indians.

25 Ques. Did the priests stop here at Vancouver all the time?

Ans. Yes, always; Bishop Blanchet, who died over in Oregon, and Father Browilette.

26 Ques. Did Father Demers stay here?

230 Ans. He did not stay here long nor all the time; he went up to the Hudson bay, up toward Victoria.

27 Ques.

Cross-examination:

28 Ques. Before the church was built here where did the priests stop—what house did they stay in?

Ans. In a house of the company, when they preached inside the fort.

29 Ques. Where did they eat?

Ans. In the little house where they were staying in the fort, near the room where they preached. They preached in the fort. They did not eat in the room where they preached.

30 Ques. What Indian tribes, principally, traded there?

Ans. The Cascades and Klickitats, the Willamette Indians, and the Indians living up the Columbia river above the Cascades.

31 Ques. Where did the Klickitat Indians live?

Ans. Over the Cascade mountains and at Camas prairie.

32 Ques. Where did the Cascade Indians live?

Ans. On the other side of the Columbia river and from the last falls down to Willamette, and in winter here as well as on the other side of the river.

33 Ques. Where did the Willamettes live?

Ans. Near where Portland is and up along the Willamette river.

34 Ques. Did the Indians trade with the Hudson Bay Company when they came here, and what did they trade?

Ans. Yes; sold them all kinds of furs and fish.

231 35 Ques. What did the Hudson Bay Company give the Indians for their furs and fish?

Ans. Blankets, beads, bracelets, and everything they wanted to buy to clothe themselves and anything they wanted—sugar, molasses, flour, and coffee.

36 Ques. Was Charles Proulx in the employ of the Hudson Bay Company when you were married?

Ans. Yes; he was a voyager and guide.

37 Ques. Are you a member of the Catholic church?

Ans. Yes; have been a long time.

38 Ques. Are you a full-blooded Indian woman?

Ans. I am a native Indian, but was raised by the Canadians since I was small, and therefore speak French.

39 Ques. What Canadian family raised you?

Ans. The old Lauziers family, who had a farm on the Willamette.

40 Ques. Was your sister married to the man who raised you?

A. Yes. She also was married in the church I was married in, but she was married first.

her
MARY x PROULX.
mark.

Witness the mark:
ERN KANTEN.

The further taking of testimony herein is now by consent adjourned until to-morrow morning at 9 o'clock.

W. BYRON DANIELS, *Referee.*

232 AUGUST 5TH, 1887.

The same parties, by their attorneys, appeared to day, pursuant to adjournment of yesterday.

The plaintiff next introduces as a witness on its behalf FRANCIS A. CHAMBERLAIN, who, being first duly sworn, testifies as follows:

1 Ques. State your name, age, place of residence, and occupation.

Ans. Francis Adolphus Chamberlain; I am 68 years old; I reside in Woodburn, Marion county, Oregon; occupation, none.

2 Ques. When were you first in Vancouver?

Ans. In November, 1837.

3 Ques. Did you come here in the employ of the Hudson Bay Company?

Ans. Yes, sir; I came in its employ as a tinsmith.

4 Ques. How long did you remain here at that time?

Ans. From 1837 until the 22nd day of March, 1841.

5 Ques. Where did you go to from here at that time?

Ans. I went home to Canada.

6 Ques. When did you next return to Vancouver?

Ans. I came back to Vancouver in September, 1842.

7 Ques. Were there any Catholic priests here in this section of country when you first came here?

Ans. No, sir.

8 Ques. When did the first priests come and what were their names?

Ans. The first priests came about the latter part of November or beginning of December, 1838. Their names were F. N. Blanchet and Modeste Demers.

9 Ques. State, if you know, how it occurred that they came here.

233 Ans. From what I have learned from the old settlers I heard that they, the settlers, had subscribed to Dr. McLaughlin sterling money to try the best he could to get a priest from Canada among them. I, for one, subscribed 19 shillings to help to get a priest from Canada here.

10 Ques. Were there any of the settlers of the Willamette valley here at Vancouver when the priests arrived here?

Ans. The news of the arrival of the priests was reported to the settlers of the Willamette soon afterwards. About ten or twenty of these settlers came down to Vancouver immediately to meet them. After the settlers got in the frosts froze the river and some of them were detained here for a couple of weeks, and then it thawed a few days and immediatelt froze up again, so that some of the settlers remained here until January.

11 Ques. What did the priests do upon arriving here, if anything?

Ans. The first thing they did on Sunday after their arrival was to celebrate the mass and preach in the old fort of the Hudson Bay Company, in a building once used by the clerks, but which at that time was used by Dr. Tolmie as an apothecary shop—a part of it;

the other part was vacant, and the priests used it to celebrate mass in and preach.

12 Ques. Did you attend that first service?

Ans. Yes, sir.

13 Ques. About how many persons were present and of what nationality?

Ans. There was about 50 persons present, of all denominations and nationalities—Canadian, French, some few Scotch, and
234 some English from the Orkney islands—we called the "Orkneys"—some Iroquois Indians from Canada and some native women and a few half-breeds born in Oregon; that's about all.

14 Ques. How frequently after that until you left here, in 1841, did the priests hold religious services here in Vancouver?

Ans. Well, sir, that is one thing I couldn't really state. They would often be absent sometimes one month; sometimes two months, and sometimes over; one was away for a year.

15 Ques. About how frequently were they here, one or the other of them?

Ans. Sometimes once a month; sometimes once in two months; sometimes once in three months, because they were out on missions, but this was their general headquarters at Vancouver.

16 Ques. When the Indians came in here to trade with the Hudson Bay Company where was their camping-ground?

Ans. Some of them, the Klickitats, would camp right around the neighborhood of where the town of Vancouver now is, and along the river here. All the Indians camped in and around where the town of Vancouver now is, and along the river.

17 Ques. Give the names of tribes of Indians, so far as you remember them, who thus camped here.

Ans. The Klickitats, the Cascade Indians, the Oregon City Indians, and the Chief Kiasno Indians, who lived where the town of St. Helen now is, and the camp of the "Pretty Girl" Indians, who lived
235 on the point opposite the town of St. Helen, and a few Chinooks, from the mouth of the Columbia.

18 Ques. State whether or not the priests ever went among the Indians camping here, and for what purpose, if you know.

Ans. They went out as missionaries to convert the Indians. They had interfered with the Canadian half-breeds, who knew the lingo of the tribes.

19 Ques. At what point in this country at that time were the largest companies or congregations of Indians accustomed to assemble or congregate?

Ans. At Vancouver; this town site here.

20 Ques. About how many have you seen assemble here at any one time between 1838 and 1841?

Ans. Some seasons there would be more than others. The most I have seen would be a hundred or over.

21 Ques. Were you ever married?

Ans. Yes, sir; on the 29th day of May, 1838.

22 Ques. By whom was the ceremony performed?

Ans. By a minister by the name of Beaver. I don't remember his first name. He was of the Church of England.

23 Ques. At what place were you married?

Ans. In the house of Dr. McLaughlin, inside the fort, at Vancouver.

24 Ques. How long was that minister here?

Ans. He was here when I came, in 1837, and he left in the fall of 1838.

25 Ques. Did the Catholic priests perform any marriage
236 ceremonies between parties after they arrived here? If so, state all you know about that.

Ans. After the priests got in, late in the fall of 1838, they performed all the marriage ceremonies between the Canadians and native women. There were no white women at that period.

26 Ques. Had these parties been living together before as man and wife; and, if so, by what authority, if any?

Ans. Yes; they had; by authority of the chief factors of the Hudson Bay Company.

27 Ques. Did they have to obtain the consent of the chief factors before they could live together as man and wife?

Ans. Yes, sir.

28 Ques. Did the priests perform those marriage ceremonies immediately upon arriving here?

Ans. It took the priests some three or four months before they could instruct those women as to what marriage meant and what baptism meant. He baptized them before marriage. They did not allow them to live together as man and wife while they were being instructed.

29 Ques. Did the priest attempt to interfere with your marriage at all?

Ans. He did. He found out I had been a Canadian, of course, and that I had been married by a minister from England, and Father Blanchet compelled me to be remarried and rebaptized my wife.

30 Ques. Prior to 1850 what method, if any, was observed
237 among the settlers and people here for marking or designating the lands claimed by them?

Ans. A man would come in at a time and would go and stake a stake on any vacant land, and that was respected as a claim.

31 Ques. Would they stake or mark all around a claim made by them?

Ans. No, sir; just one mark and it was respected.

32 Ques. When were the first surveys or marking or blazing out or otherwise designating the boundary lines of claims first made in this country?

Ans. If I recollect well, it was in the year 1850. General Preston was sent from the United States to grant these old settlers their donation land claims.

33 Ques. When did you first see United States soldiers at Vancouver?

Ans. It was in the year 1855.

34 Ques. Do you know whether there was any Catholic church at St. Paul, in what *is* now Marion county, Oregon, before the priests came here in 1838?

Ans. Yes; there was a hew-d timber church building.

35 Ques. State if you know why that was erected.

Ans. It was erected in 1836 in hopes of having a priest sooner or later. They were lo-king for a priest to come.

36 Ques. When did the Canadian and other employés of the Hudson Bay Company have their dwellings from 1837 to 1841 and from 1843 until you finally removed from here?

Ans. Right where the town sits here, near the old church or chappel, and scattered all over here; about 30 buildings.

238 37 Ques. What kind of buildings were they?

Ans. All made of slabs, put up with posts in the ground, notched in the posts, and the slabs inserted in the notches, and covered with cedar bark.

38 Ques. Where did the managers and clerks reside?

Ans. They *retired* in the fort.

39 Ques. About how much ground was inside the stockade of the fort?

Ans. Well, my best judgment would be about 4 or 5 acres fenced in.

40 Ques. How was the stockade made?

Ans. With round timber, about 12 feet high, set in a ditch on end, so one was close to the other.

41 Ques. How many new buildings and how many old buildings were inside the stockade from 1838 to 1841?

Ans. There were 13 buildings, with the powder-house, as near as I can remember; there was only three new buildings; the others were older.

42 Ques. What character of buildings were they—how many stories high?

Ans. They were put up according to the mechanics of the time—one story high; not such buildings as we see here now; passable for the time.

43 Ques. What were they made of?

Ans. The stores were made up of hew-d timber, and so were the shops—the carpenter shop, the blacksmith shop, the tinsmith shop; the other buildings, I could not say whether they were framed or whether they were planked, but I know they were lined inside

239 44 Ques. How many stores were there?

Ans. Three stores; one for goods and one for provisions and one for Indian trading store.

45 Ques. About how large was the largest of those buildings?

Ans. The dry goods store must have been nearly 100 feet long and about 40 wide; the next, about 70 feet long and about 40 feet wide; the Indian trading store about 40 by 20.

46 Ques. How were the houses roofed in?

Ans. There were two kinds of roof; one was in the English fashion, four-sided roofs, and the stores were simple gable roofs, and covered with cedar shingles. There was one grainery that I roofed

with tin; I forget its size; it must have been near 40 feet square; it was built of hew-d timber.

47 Ques. How many buildings, if any, did the Hudson Bay Company have outside the stockade, and what kind of buildings were they? I mean besides the slab shanties where the Canadians resided.

Ans. They had a little grist-mill next to this little chap*le*, or old church, about 200 yards east of it, built of hew-d timbers, and about 35 by 40 feet in size, and had a wheel about 20 some odd feet in diameter, and was worked with oxen. The building was about 15 feet high; and further east, about a quarter of a mile, toward the foot of a hill, they had a large barn, about 100 feet by 50 or 60 wide—a long barn, built of hew-d timber and round posts grooved, the timbers hew-d and slipped into the grooves and groofed with cedar bark. It was about 15 feet high, more or less; the mill was
240 roofed with cedar bark; there was more buildings about 3 miles away; but here at Vancouver they had also a hospital building, near where the slough is, near the river and about where the town now is, about 300 yards from the river; it was about 30 feet by 20 feet; I don't remember whether it was made of slabs or hewed timber; I was never in it but once; don't remember how it was roofed; it was about 10 feet high. They had a stable near where Main street in Vancouver now is and about 400 yards from the river. This stable was about 50 feet long by 20 feet wide, built of posts put in the ground and grooved and the grooves filled with slabs and roofed with cedar bark. That is all I can remember that belonged to the Hudson Bay Company; all the buildings here at that time belonged to the Hudson Bay Company.

48 Ques. Who erected the slab shanties in which the Canadians lived?

Ans. Each one of us erected our own buildings.

49 Ques. About what wages per annum did the Hudson Bay Company pay its Canadian employés here?

Ans. The common voyagers was 19 pounds a year, sterling money; the mechanics, carpenters, tinsmith-, blacksmith-, their wages were from 22 to 30 pounds sterling a year.

50 Ques. State whether or not you ever have held any official position in Oregon; and, if so, what it was and when.

Ans. Well, I was appointed to the legislature in Oregon in the fall of 1846 and 1847.

51 Ques. What was done at that session of the legislature?
241 Ans. We were framing the organic law of the provisional government of Oregon.

52 Ques. State what the character of the chief factors of the Hudson Bay Company was in those days when you lived in Vancouver with regard to controlling the rights and privaleges of the people in this country at the time.

Ans. The ones who had the control were McLaughlin and Douglas; they had control of the whole country west of the Rocky mountains; they had the law in their own power. We had to submit to their decision, right or wrong; we could not help ourselves.

Cross-examination:

53 Ques. In order to get the priests to come here the settlers had to get the Hudson Bay Company, through Dr. McLaughlin, to bring them here?

Ans. Yes, sir; through his influence.

54 Ques. By the settlers you mean who?

Ans. By the settlers I mean the Canadians and half-breeds and those who were free families.

55 Ques. What proportion of the settlers were in the employ of the Hudson Bay Company?

Ans. Those who were free settlers were not in the employ of the company; they had been once.

56 Ques. In 1841, about how many free families of Canadian descent were in the country now composing Washington and Oregon?

Ans. I should judge there must have been near 30 free settlers, French Canadians, settled in Willamette valley, Oregon, and
242 at Cowlitz about six of the Canadians that I can remember; none others that I know. These that I have named constituted the free Canadian families. There was other free families of other denominations, not Catholics; they had never been in the employ of the company. Jason Lee, Methodist minister, established a mission at Salem about the year 1837. The nationality of Lee's people were Americans.

57 Ques. About how many American families were there in 1841?

Ans. There might have been about 9 families. The principal American families in 1841 were Jason Lee, Dr. White, Dr. Whitman, Rev. Spaulding, Rev. Ells, Dr. Wilcox, Judson, Parish, Jo. Holman, and that is about all I can remember.

58 Ques. Was there any Protestant missions established in Oregon then; and, if so, where and when?

Ans. Well, yes; it might have been in 1835. Jason Lee came about two years before I did and established his location in a place known as the Old Methodist mission claim, now called Durbin Bottom, now in Marion county, Oregon. At that bottom they remained a few years and removed to Salem. When Whitman came he established his mission near Walla Walla. He was a Protestant. He came in the summer of 1837, if I am not mistaken. Spalding located in the Spokane country, I think, in the year 1839. I believe he was a Protestant. Ells was a missionary up near where Spaulding was.

59 Ques. The French Canadians were the first settlers in Oregon and Washington, were they?

Ans. Yes; they were the first. They were all Catholics,
243 and all the French Canadians in the employ of the Hudson Bay Company were Catholics.

60 Ques. Who was Dr. Tolmie?

Ans. He was one of the Hudson Bay Company's employees. He was a doctor and surgeon.

61 Ques. The Indians you saw at the first service in the fort on the first Sunday after the arrival of the priests were Indian women

who were living with the French Canadians as their wives, were they?

Ans. Yes, sir.

62 Ques. The children were the children of these Indian women by their Canadian husbands, were they?

Ans. Yes, sir.

63 Ques. What brought the Indians here in such large numbers from 1837 to 1841?

Ans. Because it was the trading post of the Hudson Bay Company.

64 Ques. What did the Indians generally trade to them, and what did they receive back from the company?

Ans. The company would trade with the Indians for dried salmon, fresh salmon, and furs; otter, beaver, mink, foxes, and all kinds of furs, and in exchange they would get powder, shot, blankets, and the like, dry goods, etc.

65 Ques. Where was the headquarters and principal place of the Hudson Bay Company west of the Rocky mountains from 1837 until 1849?

Ans. Fort Vancouver.

244 66 Ques. Where did they get their goods from to exchange with the Indians—powder, shot, clothing, guns, etc.?

Ans. From England—in vessels by sea.

67 Ques. Where were these goods first discharged from the vessel?

Ans. Right here at Vancouver.

68 Ques. What did the vessels take back in return?

Ans. Furs—all kinds of furs—coming from this side the Rocky mountains.

69 Ques. How many trading posts from 1841 to 1849 did the Hudson Bay Company have west of the Rocky mountains and where were they situated, as near as you can tell?

Ans. At Colville, now in Stevens county, Washington Territory; Walla Walla, Washington Territory; Fort Hall, Fort Bouse, and, coming down the Columbia, the Okanogan on the north side, and then at Vancouver, and then Fort George, at Astoria, and, going north, in the Fort Shoswab, in British Columbia; Fort Alexander, in the Caribon country, and the Fraser River fort and some three or four different forts on the coast of Vancouver's island, and there was one fort at Nesqually. In southern Oregon they had a fort on the Umpqua river.

70 Ques. At these forts did they trade with the Indians?

Ans. Yes; they were established for no other purpose but for trading with the Indians.

71 Ques. Where did the persons who were the chief factors of this company reside west of the Rocky mountains from 1841 to 1849?

245 Ans. At Vancouver here; their names, as near as I can recollect, were Dr. McLaughlin, in 1841; he remained until the year 1844 or 1845—the head man of the Hudson Bay Company; and then Peter Ogden filled his place until they left this country.

I suppose when I came here, in the spring of 1849, he was in charge.

72 Ques. From what point was the general distribution of goods of the Hudson Bay Company for trade with the Indians at the forts you have named made?

Ans. From the other forts the voyagers had to come down here and bring down their furs and take back goods of all kinds.

73 Ques. How many voyagers were there in the employ of the Hudson Bay Company?

Ans. There wasn't a fort but had at least five men, and here at Vancouver there was at least seventy taking the Kanakas in; there might have been at least 125 voyagers alone, not counting the clerks on this side of the Rocky mountains.

74 Ques. How often a year did they come here for goods?

Ans. Once a year; generally in June.

75 Ques. What were the Iroquois Indians from Canada doing here?

Ans. They were hired by the company the same as we Canadians; they were voyagers.

76 Ques. Did these voyagers bring Indians with them to assist them?

Ans. No, sir.

77 Ques. What did Mr. Beaver, of the Episcopal church, do when he was here?

Ans. He was sent from England expressly as a minister
246 of the gospel here to help civilize the country.

78 Ques. Did he preach and read service when he was here?

Ans. Yes, sir; I acted as a clerk to him and read in French to the Canadians. We were every one ordered to attend service every Sunday.

79 Ques. Who ordered you to attend church every Sunday?

Ans. James Douglas, the chief factor of the Hudson Bay Company. Dr. McLaughlin left in the spring of 1838, and while he was gone Douglas had charge.

80 Ques. Do you know why Dr. McLaughlin left?

Ans. He had a furlough, a pass for a year to recruit. He went to Canada and to England and back.

81 Ques. On that trip was one of his missions to get the priests to come out here?

Ans. Oh, no, sir. The chances are that they met in crossing the continent.

82 Ques. At what time did the preacher Beaver leave here?

Ans. In the fall of 1838, before the priests got here; he went by sea on one of the return vessels. The Hudson Bay Company had one vessel every year.

83 Ques. What was the religious belief of Dr. John McLaughlin?

Ans. He was a Catholic.

84 Ques. What was Douglas' religious belief?

Ans. He was an Episcopalian.

85 Ques. What was Ogden's religious belief?

Ans. I don't know.

86 Ques. At the time Dr. McLaughlin left was it not gen-
217 erally reported that he had to go to England to answer to the charge of slapping the Episcopal preacher that you have spoken of?

Ans. Not a word that I ever heard of.

87 Ques. What was the object of Dr. McLaughlin's going to England?

Ans. When I was in the legislature, in Oregon City, talking with him, he told me the object of his going to England. He said it was because he had given the liberty to the Hudson Bay Companie's men to settle down on American soil, and by so doing he lost 4,000 pounds sterling money, and he was blamed and removed, and Peter Ogden filled the vacancy.

88 Ques. Where did Mr. Beaver preach when you acted in the capacity of clerk in the church? I mean the room or building. Where was it?

Ans. In the main building of the fort, in the residence of McLaughlin and Douglas.

89 Ques. Who attended those religious services?

Ans. The people who belonged to the fort—the Schotch, O-kneys, Canadians, the Iroquois, the half-breeds, and all the employés of the fort and the native women who lived with the employés as their wives.

90 Ques. Did these same people attend the preaching of the priests afterwards—Father- Demers and Blanchet?

Ans. Yes; with very few exceptions.

91 Ques. You say you acted as clerk for Mr. Beaver. Explain what you did.

Ans. I had a Catholic prayer book that I brought from home, and Mr. Beaver knowing that I could read both languages,
248 & 249 French and English, he asked me if I would assits him in reading French to the majority of the company's servants and he would read and preach in English, and I was to explain it in French, which I did until the time he left.

92 Ques. Did Mr. Beaver baptize any of the people?

Ans. I know he baptized my own wife; no others that I know of. I did not assist any further. My wife was a native woman. Her father was a Canadian and her mother was a native Indian woman.

93 Ques. Taking the fort of the Hudson Bay Company in which the thirteen (13) buildings were situated that you spoke of, at Vancouver, as a central point, and enclosing it with lines a half a mile from that center, would all the buildings and improvements here at Vancouver from 1841 to 1849 be included within those limits, enclosing them in a square?

Ans. Yes; it would.

94 Ques. Do you know where the old Catholic church is up here in the military reservation; have you seen it since you came here this time?

Ans. I recollect of seeing it there in the spring of 1849, and I saw it again this morning.

95 Ques. Would it fall within the limits of the enclosure I have described?

Ans. Yes; I think it would very nearly.

96 Ques. Was the hospital further away from the fort than the church?

Ans. Oh, yes, it was.

250 97 Ques. Was the stable further away in distance from the fort than the church?

Ans. The stable was further away from the fort than the church.

98 Ques. What direction was the stable from the fort?

Ans. Southwest; also the hospital.

99 Ques. What direction was the barn from the fort?

Ans. Northeast.

100 Ques. Was it further away from the fort than the church?

Ans. About the same distance.

101 Ques. What direction was the church from the fort?

Ans. More towards northwest.

102 Ques. How far was the church from the fort?

Ans. Not over a quarter of a mile.

103 Ques. How far was the slab houses that the employés lived in from the fort?

Ans. Take a straight line from the corner of the fort, it might be about 500 yeard- to the first house; they were in a row like a street. The first house would be near where the chapel or old church now is. The hospital was about the furtherest house from the fort that was here at the time I was here. The hospital was on the same street, still further away. The stable lay a little back; not on the same street, but near a slough.

104 Ques. What was the authority exercised by the Hudson Bay Company in civil and criminal matters from the time you came here until the time you formed the provisional government of Oregon, the first legislature, of which you were a member?

251 Ans. Dr. James Douglas was appointed magistrate by the Queen of England, and he used his authority on one occasion to my recollection upon a man by the name of Robinson, a school teacher, in which he was tied to the cannon, had his shirt taken off, and was whipped for having committed an action which Douglas thought he deserved punishment for; he got about 18 lashes of the whip on him; I was there present and saw that.

105 Ques. When disputes occurred between persons about property rights who settled them?

Ans. No disputes occurred that I remember of.

106 Ques. Who exercised the powers that are now performed by our courts of justice now-days?

Ans. The question is hard for me to answer; there was no difficulties that I remember of, but if there were Douglas would settle them.

107 Ques. What laws governed you up to the time of the provisional government?

Ans. We had no laws; we lived like one family; we had no need of laws.

108 Ques. Who punished the Indians when they committed wrongs against the whites?

Ans. No other authority to appeal to but the Hudson Bay Company.

109 Ques. Were the Indians ever punished or disciplined or called to account by the Hudson Bay Company?

Ans. Before this massacree of Dr. Whitman took place
252 whenever any difficulty occurred it was soon settled; the Hudson Bay Company hung the Indians.

110 Ques. What did they hang the Indians for?

Ans. For murdering the white people.

111 Ques. When was the last Indians hung by the Hudson Bay Company?

Ans. In the summer of 1839.

112 Ques. Where was that?

Ans. Somewhere below Cathlamet.

113 Ques. You spoke of cannon; what was the armament of the fort?

Ans. They had two cannons of about 30 or 40 caliber, about 7 feet long, on each side of the porch, facing towards the river and towards the gate.

114 Ques. Up to 1838, there did thye bury the dead who died about the fort?

Ans. They had a place expressly for burying the dead, but I cannot designate the place, where it was; all the employés who died in and about the fort were buried there, and the Canadians designated the graves of their dead by a cross.

115 Ques. Were there any persons buried there when you came here?

Ans. Yes; there must have been; I recollect passing through the grave-yard, but I can't tell where; it was, I think, somewhere near the old church on the reservation. There was no church here in 1842, when I left; the first I recollect of seeing the church building was in 1849.

116 Ques. Do you recollect whether Mr. Beaver buried any of the dead in that grave-yard while he was here?

Ans. He might for all that I know; I recollect of seeing
253 two buried there—they were women—one half-breed and one Indian woman; one was buried in the spring of 1838 and the other in 1840.

117 Ques. Was there any graves there when these Indians were buried there?

Ans. I can't recollect. I know there was a grave-yard there.

118 Ques. Did you know shortly after you first came, from what was generally said by people living here, that they had a grave-yard?

(Objected to by plaintiff's counsel as incompetent.)

Ans. Yes; the first time I passed it was accidental, and I saw two crosses. That was about the year 1840.

119 Ques. Were there any improved grounds or gardens about the fort the first time you came here; if so, where were they?

(Objected to as not cross-examination.)

Ans. Yes; they were towards the west. A lot was fenced in which might have contained 15 or 18 acres, and on one part of it was an orchard of fruit trees. One part was left for raising vegetables—peas, carrots, and such things.

120 Ques. For whose use was the vegetables?

Ans. They were used by the people inside the fort—the chief factors, clerks, and others inside.

121 Ques. How about the outside servants having gardens and truck patches of their own?

(Same objection.)

A. No spots that I remind of.

122 Ques. Where did the Hudson Bay Company get its
254 wood consumed about the fort—its fuel?

(Same objection and immaterial.)

Ans. All over from the little church and all around here was thick timber. They got it from those woods. They picked up the best.

123 Ques. About how much cleared land was there, counting the fort, the garden, the grave-yard, and the place where the houses were built and the mill, stable, barn, hospital, etc.

(Same objection.)

Ans. I couldn't exactly state.

124 Ques. How was the land between the fort and the river?

Ans. Clear land.

125 Ques. How far up and down the river was it cleared?

Ans. I should think at least two miles by three-quarters of a mile wide that was all clear when I came here in 1837.

126 Ques. What did they use this cleared place for?

Ans. They cultivated it for raising wheat, oats, peas, barley, buckwheat, turnips, corn, potatoes, and some hay.

127 Ques. This cleared piece of land was how long?

(Same objection.)

Ans. About two miles long.

128 Ques. How wide?

Ans. About ¾ of a mile.

129 Ques. How far up and down the river did it extend?

(Same objection.)

Ans. About 2 miles, I should guess. It commenced near about where the main street of Vancouver now is and extended up the river.

255 130 Ques. How was the fort situated relative to that piece of land?

Ans. It was up in one end like on high ground.

131 Ques. How far was the fort from the river?

Ans. About 500 yards, or near so.

132 Ques. Where was the grist-mill situated with relation to this strip of ground?

Ans. From the river to that mill might be over a quarter of a mile.

133 Ques. How near was the mill to where the church is now?

Ans. About 100 yards.

134 Ques. Which was the nearest to the river—the mill or the church?

Ans. The church.

135 Ques. The land in front of the church towards the river was that in the strip of land running up and down the river that you speak of?

Ans. Yes; the same.

136 Ques. How was it about the church and mill as to standing timber—woods—in the direction of the river?

Ans. There was no standing timber; it was open land.

137 Ques. Was that the land that was cultivated?

Ans. No; not all. There was a road from the river to the church and grist-mill running a little east of north. All the land east of there up the river—at least one part of it—was in cultivation. That was the place where they raised the wheat, barley, peas, oats, potatoes, etc.

138 Ques. Where were the slabs brought from that they built their houses and stables out of?

256 Ans. From the Hudson Bay Company saw-mill, about three and a half miles up the river from the fort, and that is where they got all their planks and lumber and we would get the slabs if we would go for them or raft them down.

139 Ques. What was the term of years for which the employés were employed at by the Hudson Bay Company?

Ans. By the terms of two and three years.

140 Ques. What were the wages that the common laborers usually received?

Ans. Nineteen pounds sterling per year.

141 Ques. Was there some Kanakas in the employ of the company here when you came?

Ans. Yes, sir.

142 Ques. About how many?

Ans. It might have been, to my knowledge, about 8 or 10.

143 Ques. Do you recollect of any preaching to the Kanakas by any one?

Ans. Not as I know of.

Redirect:

144 Ques. Did you hear of the preacher Beaver baptizing any one else besides your wife while he was here?

Ans. Not as I can recollect of.

145 Ques. You say there were no Indians hung by the Hudson

Bay Company in this country, so far as you know, after 1839. How many were hung before that by the Hudson Bay Co., so far as you know or have heard?

Ans. Not one before that; but one was shot through the order of the company. The one who was hung was hung for shooting a man by the name of Mckay, a Scotchman. The one who was shot was shot in 1843, in New Caledonia, for killing one of the chief factors named Black. New Caledonia is up in what is now the British possessions.

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146 Ques. How long were you here before you first saw the graveyard yourself?

Ans. I never seen it but once; passed through it but once, by accident, and saw the signs of the cross. This was two years after I came here; in the year 1840, I believe.

147 Ques. This cleared land that you speak of as extending up and down the river about two miles in length and ¾ of a mile wide, could you tell when you got here whether that land was prairie or had been timbered land which had been cleared?

Ans. I can say that I was told by the old voyagers themselves that it was prairie.

148 Ques. How far were you ever east through that prairie land from the fort while you lived here?

Ans. About a mile or a mile and a quarter in this bottom land.

149 Ques. Had the whole of it, so far as you walked over it, been in cultivation or had it been cultivated in spots?

Ans. All that I walked over had been under cultivation.

150 Ques. Could you see beyond you across the prairie up the river distinctly enough to tell how much of that still above you had been in cultivation?

Ans. I can tell this much, because I harvested and cradled grain on the land a mile or a mile and a quarter going up the river. I could not say as to the land above there having been in cultivation.

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151 Ques. About how much did it cost per acre in the early settlement of the country to break up and plow the sod of prairie land and prepare it for sowing?

Ans. Between us settlers we generally used to pay $3.00 an acre for plowing and $1½ for harrowing; that is $4.50 altogether per acre. This land was fenced all around, except the river served as a fence on one side. It was a rail fence; rails made of cedar, and the fence 7 rails high.

152 Ques. What did it cost per hundred or per thousand for making rails here in that early day?

Ans. I had to pay in Marion county, Oregon, $1.84 per hundred for rails made from big timber—fir trees, say 2 to 3 feet in diameter. I would sooner made rails in cedar that in fir.

153 Ques. Do you know who owns the farm or lands just east of the military reservation up to the river, including the part of that prairie land you speak of?

Ans. I don't know but that the mission claimed a part of it.

154 Ques. When did you first hear of the mission claiming this land here as a mission station?

Ans. When we was called to notify our claims at Oregon City, in the spring of 1851.

155 Ques. Where were you living at that time?

Ans. Marion county, Oregon.

Recross-examination:

259 156 Ques. Did you hear at that time, in the spring of 1851, at Oregon City, that they had filed a claim like other settlers for the land?

Ans. I recollect hearing talking among the Canadians at Oregon City at that time about the mission claims—the Cowlitz mission, the St. Paul mission, and Vancouver mission—but whether they had then filed or notified I do not know.

157 Ques. What was it you heard them say about this?

Ans. I heard the people talking about these three missions, and I believe they tole me that the *rpiests* themselves had come with the intention of notifying their claims, or something of that kind. I was kept there three or four days to interpret for the Canadians. That was while Mr. Preston was locating the land claims for the settlers, of whom I spoke in my direct examination.

158 Ques. Was not the previsional government in Oregon organized in the year 1845?

Ans. They started to organize the provisional government in 1843, and — was organized in 1844 and 1845. The first legislature was elected in 1844.

159 Ques. What kind of a fence was around the bottom land you spoke of; was it a post-and-rail or was it an ordinary worm fence?

Ans. I believe one part was straight fence—posts and rails pinned together—and the other was a Virginia worm fence.

FRANCIS A. CHAMBERLAIN.

260 The further taking of testimony herein is now by consent adjourned until to-morrow morning at 9 o'clock.

W. BYRON DANIELS, *Referee.*

SIXTH DAY, *August 6th*, 1887.

Plaintiff next introduces on its behalf PETER POAPS as a witness, who, being first duly sworn, testifies as follows:

1 Ques. State your name, age, place of residence, and occupation.

—. Peter Poaps; I am 34 years old; I reside at Vancouver, and by occupation a Catholic priest.

2 Ques. State what the two books are which you hold in your hand.

Ans. These are the records of baptisms, marriages, and burials of St. James mission, at Vancouver and surroundings, from the year 1838 to 1844, and the second volume is from 1842 to 1856.

3 Ques. State what the papers are which you hold in your hand.

Ans. These are exact translations of baptisms, marriages, and

burials that have taken place at St. James mission, at Vancouver, from the year 1838 to 1848, inclusive.

4 Ques. Do the papers show the names of the priests by whom the baptisme, marriages, and burials were performed?

Ans. Yes, sir.

5 Ques. In whose handwriting are the translations of those papers which you hold in you hand?

Ans. My own.

6 Ques. From what source did you obtain them?

Ans. From the two books of which I have testified, that I have here.

261 7 Ques. In what language are the original entries in these two volumes from which these translations were made?

Ans. French.

8 Ques. State whether or not you write and speak the French language.

Ans. I do.

Plaintiff now offers in evidence the papers containing said translations and asks that they be received in evidence and filed as Exhibit No. 1 to this deposition.

The papers are now received by me and filed in evidence accordingly as Plaintiff's Exhibit No. One, as aforesaid.—W. Byron Daniels, referee.

9 Ques. State what the writing is on the last page of these papers which have just been filed as Exhibit No. 1 to your deposition.

Ans. That is a translation of the act of marriage of Joseph Petrain and Catherine Dolan on the 14th day of August, 1848, as appears from these records—volume 2, page 99—and is a translation of the same entry in French, on the last preceding page—at the foot of the page.

10 Ques. Can the church allow these original books or registers from which these acts of marriage, baptisms, and burials, mentioned in Exhibit No. 1, are contained to be removed from the custody and records of the church?

Ans. No; our rules are that they must be under key all the time.

11 Ques. Are you willing and will the Catholic church and the plaintiff in this action consent that these books may be

262 thoroughly inspected by defendants or defendants' counsel, at the church where they are kept, at any reasonable hours or times, in order to verify your translations or for any further legitimate purpose?

Ans. Yes.

12 Ques. What is the paper which you now hold in your hand?

Ans. This paper contains a copy, translated into English, of the acts of baptisms, marriages, and burials performed at St. James mission and elsewhere, which constitute the first entry or heading of each book. I mean the two volumes which I now have here and which have been heretofore referred to by me in my deposition.

13 Ques. By whom was the writing upon this paper you now hold in yonr hand made?

Ans. By me.

14 Ques. Is it a true and correct translation of the first entries contained in volumes 1 and 2 of the church records which you produce here?

Ans. Yes.

Counsel for plaintiff now offers the paper in evidence about which the witness is now testifying and asks that it be received and marked as Exhibit No. 2 to this deposition, and the same is accordingly done.—W. Byron Daniels, referee.

15 Ques. Those two volumes—1 and 2—contain the record of acts of baptisms, marriages, and burials at many other points and places than at Vancouver and the country immediately surrounding it, do they not?

263 Ans. Yes.

16 Ques. What particular acts of baptisms, marriages, and burials are referred to and designated in the translations contained in the pages of the writing which has been received and marked as Exhibit One to your deposition?

Ans. All such acts performed by the Catholic priests at Vancouver; most of them were performed in church, but some of these acts were performed in private houses.

17 Ques. What do the dates on the left-hand margin of these pages constituting Exhibit One indicate?

Ans. The date upon which the act was performed.

18 Ques. What do the names upon the same lines with those dates respectively indicate?

Ans. The names of the persons upon whom the service was performed and the name of the priest who performed the same.

Cross-examination:

19 Ques. You are a priest of the Catholic church and your bishop is Bishop Junger, the plaintiff in this action in his corporate capacity?

Ans. Yes, sir.

20 Ques. These books are old and ancient in appearance. Are they the books from which you made the translation?

Ans. Yes, sir.

21 Ques. How many pages of record of deaths, marriages, and baptisms are there in the first volume?

Ans. 164.

22 Ques. What number of entries will they average to the page?

264 Ans. About seven.

23 Ques. Some of these entries of baptisms contain in a single entry the record of the baptism of more than one person?

Ans. Yes.

24 Ques. How many pages of record of deaths and marriages and baptisms are contained in the second volume?

Ans. 161.

25 Ques. What number of such entries will this volume average per page?

Ans. About the same as the other.

26 Ques. From whom did you receive these records?

Ans. From Bishop Junger.

27 Ques. Who is Bishop Junger?

Ans. The Bishop of the Catholic church at Vancouver.

28 Ques. What section of the country does his *discease* include?

Ans. The whole of Washington Territory.

29 Ques. Where are these books kept?

Ans. In the cathedral at Vancouver, Washington Territory.

30 Ques. What part of the town of Vancouver is that cathedral?

Ans. It is situated upon a block of what is known as Smith's and Turner's addition to the city of Vancouver.

31 Ques. How far is that from the old Catholic church in the military reservation?

Ans. It would take about 5 or 6 minutes to walk the distance at ordinary gait.

32 Ques. When was the new cathedral where you got the books erected?

Ans. About four years ago.

265 33 Ques. Where is the bishop's residence?

Ans. Near the cathedral, in a house known as the arch-episcopal residence.

34 Ques. The first entry on the first page of volume No. 1 of these records which you have here from which you made the translations you have offered in evidence is in the French language, is it not?

Ans. Yes, sir.

35 Ques. A translation of it would read, "This register of baptisms, marriages, burials performed from the Red river, inclusively to the Columbia river, and in particular on the Cowlitz river and in different places on the Columbia river, on the other side of the mountains, have been prepared, collected, and registered by us, undersigned, priest missionary of the Mission of St. Francis Xavier, on the Cowlitz river, on the Columbia, for the year 1838, the following acts. At Norway house, the 18th July, 1838.—Modeste Demers, priest," would it not?

Ans. Yes, sir; it would.

36 Ques. Where is Norway house?

Ans. I do not know.

37 Ques. In the original book all, including the word Norway house, appears to have been made in a different colored ink than the words "Modeste Demers, priest"?

Ans. It is different colored ink, but it is in the same handwriting as the other.

266 38 Ques. Following this first entry, then, page after page in the book comes the record of deaths, marriages, and baptisms, does it?

Ans. Yes, sir.

39 Ques. Where is the Mission of St. Francis Xavier?

Ans. At Cowlitz, Lewis county, Washington Territory. Father Emil Kanten is the priest there now.

40 Ques. In this volume one is there not a record kept indiscriminately with the records which you have translated, Exhibit 1, in your deposition-in-chief of marriages, deaths, baptisms at Cowlitz, Nesqually, Olympia, Steilacoom, St. Paul, and many other points and places?

Ans. Yes; they are all mixed up. I had to select these out of the others.

41 Ques. The first record entries in this volume one are records of baptisms at the Norway house. Are there any other words heading that list than you have translated?

Ans. The words heading the list I have translated in full. Immediately under those words are in French, which, being translated into English, read, "Following acts have been performed at Norway house;" and then follows five record entries on the first page of baptisms at Norway house—in all, nine baptisms and 2 marriages at Norway house.

42 Ques. The next acts are where?

Ans. At the Grand Rapids—one baptism and one burial. The next acts are at Carrollton—32 baptisms and 7 marriages; then comes the acts performed at Fort Pitt, on the Sascatchawan
267 river—11 baptisms; then come the acts performed at Fort Edmonton or Fort August, on the Sascatchawan river—3 marriages and 39 baptisms; the next are the acts performed — Jasper's house, Sewla river, Athabasca river—35 baptisms and one burial; then come the acts performed at Fort Desr Lacs, on the Columbia river—17 baptisms, one marriage, and 3 burials; the next are at Fort Colville, on the Columbia river—19 baptisms; the next are at Fort Okanogan, on the Columbia river—14 baptisms; the next are at the Nez Perces—3 baptisms; the next are at Fort Vancouver, on the Columbia river—18 baptisms and one marriage; the first entry at Vancouver is in French, and is on the 34th page of the book, and translated into English is as follows:

"*Acts Performed at Fort Vancouver, on the Columbia River.*"

"B—181. Louise, Chinook.

The 1st of December, 1838, we, the undersigned, the priest, have baptized Louise at the house, the wigwam; 20 years old; godmother, Catherine Rusue, who could not sign.

F. N. BLANCHET, *Priest.*"

Then follow the records of baptisms and the marriage I have stated. The next record is of "Acts performed on the Cowlitz, an affluent of the Columbia river"—7 baptisms. The next record is of acts performed at Fort Vancouver, the heading of which is in French, and, translated into English, reads as follows: Acts performed at Fort Vancouver—9 baptisms, 8 marriages. Now comes "1839" in *in* figures; "Acts performed at Fort Vancouver:" Records of baptisms, 8; marriages, 2; burials, 3. Then comes "Acts

performed at the Catholic mission of the Willamette:" Bap-
268 tisms, 74; marriages, 25; burials, 1. The heading given as "Acts performed at the Catholic mission of the Willamette" is in the French language, and I have correctly translated it as above, and all those acts were performed as shown in the record by F. N. Blanchet, priest, and I have not included them in Exhibit 1 because it was not at Fort Vancouver. Then comes an entry entitled "At Vancouver," following which are the records of 13 baptisms and 12 marriages; then follows the heading, "At Vancouver, after the departure of the express;" then comes record of 5 baptisms and 2 burials; then follows the heading, "Acts performed at the Cowlitz;" then follows the record of 8 baptisms and 7 marriages; then follows the heading, "Baptisms of children, Klickitat, the 23rd of April, 1839;" then comes the record of 8 baptisms; then follows the heading of "Baptisms of Cowlitz children;" then comes the record of 9 baptisms; then comes the heading, "Three baptisms of Cowlitz children," under which comes the record of 3 baptisms; then comes the heading, "Acts performed at Fort Nesqually," under which comes the record of 13 baptisms and 2 marriages; then comes the heading, "Acts performed at Willamette," under which is the record of 6 baptisms, 2 marriages, 3 burials, 1 blessing of cemetery, one adjuration; then comes the heading, "At Fort Vancouver, from the 14th of May to the 17th of July," under which is the record of 54 baptisms, 17 marriages, and 2 burials;
then comes the heading, "Mission of the Cowlitz from the 20th
269 July to the 18th December," under which appears the record of 1 marriage, 2 baptisms, 1 burial; then comes the heading, "Mission of Fort Nesqually, from the 13th August to the 12th September," under which is the record of 6 baptisms and 2 marriages; then comes the heading, "At Vancouver, from the 20th of September," under which is the record of 4 baptisms; then comes the heading, "Mission of Colville, from the 22nd of June to the 1st of October," under which is the record of 73 baptisms, all by Father Demers; then comes the heading "1840," under which appears the record of 4 baptisms and 2 marriages by the same priest.

The further taking of testimony herein is now by consent adjourned until Monday, August 8th, 1887, at 9 o'clock a. m.

W. BYRON DANIELS, *Referee.*

SEVENTH DAY, AUGUST 8TH, 1887.

Same parties present as of August 6th, 1887.

Cross-examination of PETER POAPS continued:

(He continues his answer to the last question on page 196 of his deposition.—W. Byron Daniels, referee.)

Then comes the heading, "Acts at Vancouver from the 10th of February," under which appears the record of 4 baptisms and 2 burials. The next heading is, "Acts performed since departure of the express, 21st March, 1840," under which appears the record of

3 baptisms and 1 marriage. The next heading is, "Acts per-
270 formed on Cowlitz," under which appears the record of 4 baptisms. The next heading is, "Acts performed among the Chinooks," under which appears the record of 8 baptisms. The next heading is, "Acts performed at Fort Vancouver," under which appears 4 baptisms. The next heading is, "Mission of Colville, from the 29th of June to the 1st of October," under which appears the record of 7 baptisms. The next heading is, "At Vancouver, from the 1st of October," under which appears the record of 3 baptisms. The next heading is, "The Mission of Colville, 1840," under which appears the record of 16 baptisms, 2 marriages, 3 burials. The next heading is "1841," under which appears the record of 12 baptisms, 1 burial. The next heading is, "Acts performed at Vancouver from the 7th of March," under which appears the record of 21 baptisms, 5 burials. The next heading is, "Acts performed at Vancouver the 15th of May," under which appears the record of 38 baptisms, 6 burials, and 1 marriage; and heading under which appears the record as follows: Besides these we, the undersigned priests, have also baptised, in the Mission of the Bay of Puget Sound, at Fort Langley, 752 Indian children. The next heading is "1842," under which appears the record of 41 baptisms, 4 marriages, 11 burials.

43 Ques. Up to the 1st of November, 1842, what priests certify to the records of births, deaths, and marriages of which you have been testifying?

Ans. Father- Demers and Blanchet, so far as my examination of these records reveal.

44 Ques. When is the first entry made by any other priest?

271 Ans. A baptism by Father J. B. Z. Bolduc, Nov. 1, 1842.

45 Ques. Do the first entries of Father Bolduc show where the baptisms were performed?

Ans. No; except that they come under the heading "1842." There are 5 baptisms in 1842 by Father Bolduc. The next heading is, "The year 1843," under which appears the record of 29 baptisms, 6 burials, 6 marriages, all certified by Father Bolduc. This volume does not show where these acts were performed. The next heading is "1844," under which appears the record of 24 baptisms, 29 burials, 3 marriages, all performed by Father- Bolduc and Demers.

46 Ques. Do these entries show where these acts were performed?

Ans. No; except that they come under the heading "1844," and these entries close the first volume.

47 Ques. Take the second volume and translate from the French into English the first entry on the first page of that volume and state whether or not the record of baptisms and deaths, marriages, etc., follows in regular order that entry.

Ans. Yes, sir; they follow in regular order the first entry? The translation of the first entry is as follows:

1st page. F. N. B.

"The 12th October, 1842.—Register of the Mission of the Holy

Name of Mary, Vancouver, containing 82 sheets besides this one marked and registered by us, undersigned mission priests of the Columbia, to serve as record of baptisms, marriages, and burials that will be performed at Vancouver and surroundings.

In testimony of which I have undersigned, Vancouver, the 9th November, 1842.

F. N. BLANCHET,
Missionary Priest."

272 48 Ques. Does this volume, like the first one, contain the records of baptisms, marriages, and burials at other places than at Vancouver?

Ans. No, sir; Vancouver and surroundings.

49 Ques. Can you find when the words "St James mission" first occur in these records?

Ans. Yes, sir; on page 122 of volume 2.

50 Ques. Under what date is the entry in which these words occur?

Ans. On the 13th day of November, 1851.

51 Ques. What priest certifies to that entry?

Ans. J. B. A. Brouillet, priest, vicar general.

52 Ques. Is that entry in French or English?

Ans. In English.

53 Ques. What does it purport to be?

Ans. The promise of liberty of the wife of John F. Noble, Esq., to bring up her children in the Catholic religion.

54 Ques. Just a short space above the name of J. B. A. Brouillet does not these words occur, "We, the undersigned, vicar general, curate of this Mission of St. James, of Vancouver, duly authorized to perform marriages between Catholics and Protestants, have received their mutual consent of marriage in presence of Loyd Brook, James Birnie, and many others"?

Ans. Yes.

55 Ques. In that connection is the first mention of the words "St. James mission," is it not?

Ans. Yes.

56 Ques. Observe the book from that entry on and see if the words "St. James mission" do not frequently occur thereafter.

273 Ans. Three or four times from page 122 to page 161.

57 Ques. Turn to page 139 and the latter part of the entry on that page reads how?

Ans. "We, the undersigned, vicer general in charge of this mission of St. James, at Vancouver, duly authorized to perform marriages between Protestants and Catholics, have received the mutual consent of marriage of said John Murray and Annie Fitzgerald in presence of Pierce McDonald and Bridget Golden, who have signed with us and the spouses."

58 Ques. What priest signs that entry?

Ans. J. B. A. Brouillet.

59 Ques. Why does he call himself vicar general, if you know?

Ans. Because he is the councilman and representation of the bishop.

60 Ques. This had been created into a diocese at that time, had it?

Ans. Yes.

61 Ques. Do you know who the bishop was at that time?

Ans. Augustine Blanchet, and his diocese embraced the whole of Washington Territory, so far as I know of.

62 Ques. This book contains the record of a good many marriages of soldiers of the United States Army and the baptism and burial of their children and wives and themselves, does it not?

Ans. Yes; it does.

63 Ques. Do you know when the Catholic diocese of Washington Territory was established?

Ans. Yes; in the year 1850.

274 64 Ques. The words "Extracts of the register of St. James mission, Vancouver, Washington Territory," and the words "St. James mission" or the words "St. James," where they or any of them occur in Exhibit No. 1 to your deposition are your own words and do not appear in the records.

Ans. Yes, sir; I put them there because these registers repose at the Church of St. James.

65 Ques. When does the first entry, signed by J. B. A. Brouillet, appear?

Ans. The 16th of December, 1850, on page 111 of volume 2; it is a record of a burial.

66 Ques. Translate it in full.

Ans. "The 16th of November, 1850, I, the undersigned, missionary priest at Fort Vancouver, have buried Margaret, who died the day before, aged about 30 years, wife of Francis La Frambois, of this mission.—J. B. A. Brouillet, priest."

67 Ques. Now, examine carefully every entry from the one you have just translated, and find and translate the entry where first occurs the words "St. James mission."

Ans. On page 113 the entry is a marriage record, recorded in French, signed by J. B. A. Brouillet, and in it occurs the words "St. James mission," as designating the place where the marriage occurred—the 20th of January, 1851; the next entry where these words occur is on page 114, where is recorded a marriage by the same priest on the 27th day of January, 1851; the next entry where they occur is on page 115, which is the record of a marriage

275 by the same priest on the 27th day of January, 1851.

68 Ques. Where, in what books, is the record of blessing or consecrations of burial grounds kept from 1838 to August, 1848? I mean of burial grounds set aside for Catholics in this section of the country.

Ans. So far as I know, they must be in the hands of the bishop or in the archives of the diocese.

69 Ques. Catholic churches are always blessed, are they?

Ans. Yes; but not until they are out of debt, unless by special permission.

70 Ques. Are there the records of any church or cemetery blessings or consecrations in these two volumes from which you have been testifying?

Ans. Yes; one; it occurs on page 86 of volume 1 and under the heading of "Acts performed at the Willamette," and in French, signed by F. N. Blanchet, and translated reads:

"10th of June, 1839.—We, undersigned, priests of vicar general of the Columbia, have blessed—following the custom—a piece of land of 33 feet front and 25 feet deep, surrounded by a picket fence, having in the middle a great, blessed cross to serve the said ground as burial ground and to be the cemetery of the Catholic mission of St. Paul of the Willamette. This blessing has been done in presence of Joseph Gervais, of Stephen Lussier, and of a great number of others who did not know how to sign, and of Mr. Nicholis Montour, who has signed with us.

NICHOLIS MONTOUR.
F. N. BLANCHET, *Priest.*"

276 71 Ques. You have gone carefully through these books, selecting the records of acts done by the priests at Vancouver, have you?

Ans. Yes; from the year 1838 to 1848 included.

72 Ques. Have you found any entries in that period of time of the dedication or blessing of any grave-yard or church at Vancouver? And, if so, please turn to the page of the record and translate it for us.

Ans. The foregoing is the only one I have found.

73 Ques. When do the entries in English first begin in those books?

Ans. On page 120 of volume 2 of these books, which is in the handwriting of J. B. A. Brouillet, on the 30th day of November, 1851.

74 Ques. Since the adjournment for dinner have you made a careful examination of these books to find the blessing or consecration of any church or grave-yard; and, if so, what has been the result of that examination?

Ans. Yes; I made a further examination, and on page 73 of volume 2 I find the following entry in French, which, translated, reads:

"31st of May, 1846.—We, the undersigned priest, missionary of the Company of Jesus, provided with necessary powers by his lordship F. N. Blanchet, have opened and solemnly blest at Fort Vancouver, following the *right* of the Catholic church, the new church founded and built by Mr. James Douglas, chief factor of the honorable Company of Hudson and governor of said Fort Vancouver; have dedicated this church to divine service under the auspices of the holy name of Mary and the patronage of the Apostle St. James the Greater.

277 In testimony of which have signed with us James Douglas, Rockue Ducheny, John Finley, Joseph Petrain.

P. DE VOS, *S. J.*

75 Ques. After P. De Vos occurs the letters "S. J." What do they mean with reference to the name De Vos?

Ans. It means that P. De Vos was the priest who performed the ceremony, and that he was of the Society of Jesus.

76 Ques. Is there any other entry in connection with this entry in this book?

Ans. Yes; on the margin of this book and adjoining this entry there is an entry in English with a darker colored ink in these words: "# April 24th, 1850, the signature of James Douglas sworn to this day. Dr. Forbes Barclay. J. Tilton, sur. gen., W. T." Also the following entry beneath the foregoing English entry and on the same margin: "May 3, '60, all the signatures identified by Joseph Petrian. J. Tilton, S. G., W. T."

It is now here admitted by the counsel for the parties that at the date of the English entries above quoted J. Tilton was surveyor general of Washington Territory, and that the English entries are in his handwriting, with the exception of the name of Joseph Petrain.

W. BYRON DANIELS, *Referee.*

77 Ques. Have you found any entries in these books relative to the blessing or consecration of a grave-yard or cemetery at Vancouver?

Ans. No.

278 78 Ques. Has the Catholic church a grave-yard or cemetery at Vancouver?

Ans. Yes; established about four years ago.

Witness here says: "I desire to make a correction in my testimony wherein I stated the number of the page and date of the first English entry as page 120, and it should be page 104 of the date 29th day of June, 1849, by Patrick J. McCormick."

W. BYRON DANIELS, *Referee.*

Redirect:

79 Ques. Does the Catholic church ever bless or consecrate a burial ground when the graves of Catholics and non-Catholics are mixed up indiscriminately?

Ans. No.

80 Ques. Please turn to page 96 of vol. 2 of these books of which you have been testifying and read the first entry on that page.

Ans. It is in French and translated as follows: "Acts for the administration of the confirmation." The year 1848, the fourth of the month of June, in the octave of the ascension, the sacrament of confirmation has been administered by most Reverend my Lord Francis Norbert Blanchet, archbishop of Oregon City, in the Chapel of the Mission of the Holy Name of Mary, of Fort Vancouver, to" (then follows 23 names); and the entry concludes as follows: "In testimony of which his lordship has signed the present act, written by me, missionary priest, at the said Fort Vancouver.

279 F. N., archbishop of Oregon City; Delevand, missionary at Fort Vancouver, secretary *ad hoc.*

81 Ques. State where you yourself are located and officiating as a Catholic priest at the present time.

Ans. At Vancouver, Washington Territory.

82 Ques. State whether or not you officiate and perform services in the cathedral from which these two books are brought, viz., vols. 1 and 2 of church registers, of which you have been testifying.

Ans. Yes.

(It is now admitted by defendant's counsel that these books are a part of the records of the Catholic church of Washington Territory and in custody of the Catholic bishop of Nesqually, at Vancouver, to avoid the necessity of calling said bishop here to testify as to that fact."

W. BYRON DANIELS, *Referee.*)

83 Ques. State what follows immediately after the church dedication, at the foot of page 73 of volume 2, which you have translated, with the marginal entries opposite the same, and is contained on pages 74 to about the middle of page 81, inclusive, and by whom the record of these proceedings is signed.

Ans. There is a burial record certified by P. De Vos, S. J. Then follows the records of 23 baptisms, all signed by P. De Vos, S. J., except one signed by Modest Demers, S. J., and one by W. Accolt, S. J.; also the record of 5 marriages by P. De Vos, S. J., and also the record of 3 burials by P. De Vos, S. J.

Recross-examination:

280 84 Ques. On page 205 of your deposition, in answer to the first question on that page, you say, "No, sir; Vancouver and surroundings." Do you mean by the word surroundings surrounding places, such as St. Paul, Cowlitz, and other localities than Vancouver?

Ans. No; I understand Fort Vancouver and surroundings. I find one entry of the records of baptisms on Jack river and an Indian village on the left bank of the Columbia river.

PETER POAPS.

Next follow the Exhibits Nos. 1 and 2 to the testimony of Peter Poaps. Further testimony for plaintiff resumed *of* page No. 217, after these exhibits.

W. BYRON DANIELS, *Referee.*

281 N. B.—Parties whose family names are not given are supposed to be Indians or slaves.

P. P.

216½.

Extracts of the Register of St. James Mission, Vancouver, Wash. Ter.

Baptisms. Reg., page- 17, 18, and 19.

1 December, 1838. Louisa (Chinook), by F. N. Blanchet, priest.
8 " " Catherine Humperville, by F. N. Blanchet, priest.
8 " " Mary Pambrun, " " "
8 " " Adele " " " "
8 " " Hennetta, " " "
8 " " Mary Wagner, by Modeste Demers, Pr.
8 " " Rosa Caille, " " " "
14 " " Joseph Sauic, " " " "
14 " " Edward Montigny, by Modeste Demers, Pr.
14 " " John Baptiste, Sebastian, and two children, by Modeste Demers, Pr. Children's names, Toussaint and Betsy Gobain.
14 " " John Baptiste Bourgeau, Thomas Comiean, Peter St. Andre.
24 " " Mary Laferte, Catherine Laferte, Susanna Montour, by Rev. Modest Demers, priest.

Page 20, Reg. St. James.

27 " " Julianne Watice, Ursula Gros, Louis, Susanna Kanaka.

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Page 21, Register St. James.

Peter Calden, by Rev. F. N. Blanchet, Pr.
29 December, 1838. Marguerite Lucier, Louisa (Indian), Susanna Caty, by Modest Demers, priest.
31 December, 1838. Isabell Montour, by F. N. Blanchet, Pr.
2 January, 1839. Louisa Thinauk, by Rev. Modest Demers, priest.
5 " 1839. John Baptiste Pambrun, by Rev. Modest Demers, priest.
7 " " Joseph Corbeith, Norray (Indian), Mary Konapaga.
12 " " Andrie, Indian; 21 January, Jane Wayanashat.
28 " " Mary Schihlis, by Modest Demers, priest.
3 February, Baptism of Louisa, by " " "
10 " " John, Rev. Josiphte Makak, Josepte Sock, Mary Kathlamet, Josepte (Nez Perce), Marguirete Sook, Lucy (Chinook), Louisa Kawitchin, Catherine Kathlamete, Mary Kamtclim, Emily Kathlamet, Josepte Tsik, all baptized by Rev. F. N. Blanchet, priest.

12 March, 1839. Lament Farontiatchiko,
17 " " Catherine Manoine,
30 " " Mary Sawkics,
1 April, " John Baptiste Tlikatat,
14 " " Jane Douglass,

} By Rev. Modest Demers, priest. Page 37, Vancouver Records.

25 May, 1839. John Baker,
Sophie Schichilis,
28 " " Cecile, Indian,
2 June, " Julienne Dunpiere,
6 " " John Baptiste Tobin, Andrew Ray.

(Over.)

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9 June, 1839. Louis Brunel,
10 " " Mary Homis,
17 " " Theresa Yakima,
} By Rev. Modest Demers. Page 434, Vancouver Rec.

20 " " Peter Malouin, Francis Oussent, Ambrose Dalcowv, Theresa Dalcowv, Victoria Cournaille, Josepte Cournaille, Catherine Aubiton, by Rev. Modest Demers, priest. Page 45, Record.

21 " " Michel Dubrenil, Baptiste Dubrenil, Louis Quintat, Rosalie Quintat, by Rev. F. N. Blanchet, Pr.

26 " " Foe Chamberland; 29 June, David Denhamps; 11 June, John Aironet; by Rev. F. N. Blanchet, Pr.

4 July, 1839. Louise Tawakon, Louis Nontan, Susanne Nontan, Anna Louise La Frere, Michul Louis La Frere, Catherenne Mongue (Indian), Mary Monica (Indian), by Rev. F. N. Blanchet, priest. Page 46, Records Vancouver.

7 " " Baptism of Anna Schinook, Francisca (Indian), Judith (Indian), Cecil McDonald, Esther Dalcourt, Anthony Plante, by Rev. F. N. Blanchet, priest. Vancouver Rec., page 46.

8 July, 1839. Mary Anne (Indian), Emily Picard, Joseph Laframboise, Michael Laframboise, Agatha Kohossa, Margurete (Indian), Vutonic McMillen, by Rev. F. N. Blanchet. Vancouver Rec., page 49.

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11 July, 1839. Therese (Indian), Cecile Feykwarhie, Lazarus Feykwarhie, Thomas Feykwarhie, Mary Anne Feykwarhie, Louisa (Indian), Agnes Feykwarhie, Louisa Kalapaga, by Rev. F. N. Blanchet, Pr. Vancouver Rec., page- 49, 50.

13 July, 1839. Catherine Kossicsa, by Rev. F. N. Blanchet. Van'r Rec., page 50.

22 Sept., 1839. Elizabeth Farron; Philomene Tetron, by F. N. Blanchet, Pr.

20 " " Peter Kiliktate; 20 October, Peter Stomcloh; by M. Demers, Pr.

11 Feb'y, 1840. Angela Poncier, Louisa Gendron, by M. Demers. Page 58, Van'r Rec.

28 Feb'y, 1840. Mane Hellikornitz; 7 March, Catherine Laure; by M. Demers, Pr.

20 March, 1840. N. Lefelre; 28 March, Theresa Wakkaskow; 30 March, Dominie Gendron; by Rev. Modeste Demers. Page 59, Vancouver Rec.

17 June, 1840. Ermile Lana, Louis Vendal, Geniveve Vendal, by M. Demers, Pr.

24 " " Leandre Malcrien, by Rev. Modest Demers. Vancouver Rec., page 60.

46 October, 1840. Joseph Chamberland, Henryetta Wyhee, Marguerete Devinesiers, Gregory, Indian; 18 October, Marie Dalacs; 23 October, Rose Finley; 6 October, Mary McPhail; 19 October, Marguerite McLean, Mary Lion; 23 October, Helena Stirum.

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26 October. Basile; 29 November, Louise and Paul Guibault; 3 December, Joseph, Indian; 13 December, Michael; 15 December, Edward, Pelagie, Angela, Marguerite (Indians), by Rev. Modest Demers, priest. Record of Vancouver, volume 1, page- 61, 62.

25 January, 1841. Alexandre Chouanik; 26 Jan., Ensibe Kamihawroth.

29 " " Francis Noohay, by Rec. M. Demers, Pr. Vanc. R., p. 62.

1 February, " Susanne Newhatah; Theresa Tapinion, on 21 February.

22 " " Domini Stenito, Captoline Churtine Skya.

24 " " Frances (Indian); March, Michael and Anna Katsote, Levcadie Ottenah; 7 March, Emile Geneveva, John, Thomas, Theresa; 15 March, Mary Anne; 16 March, Tynaces (Indian), Augustine (Indian), Joseph (Indian); 29 March, Edward Tonwater; 6 April, Scolastigne Wagner; 19 April, Ivador Joachim (Indian), Raymond, Elizabeth, Pauline (Indian-); 29 April, 1841, Catherine, Indian; Joseph, by Rev. Modest Demers, priest. Vancouver Rec, page- 63, 64.

16 May, 1841. Maguerite Rae, by Rev. Mod. Demers. Vanc. R., p. 65.

7 June, 1841. Ermmerence and Helene Gagnon, Sara Pambrun, Henrietta; 16 June, Olive Owhyhan, Olympe Devsis; 20 June, 1841, Maria Guilbault; 21 June, Agnes (Indian); 23 June, Mary; 24 June, Agatha Monica (Indian); 13 July, John Baptiste, Larrisha; 19 July, Julianna; 18 July, 1841, Francis Provier; 15 August, Agnes Latour; 3 Sep-

tember, 1841, Basile Lafleur, Christine, Sophie, Catherine, Peter, Alexander McDonald; 4 September, 1841, Mary and Francis, Maille
286 Florentia Vandrin, Robert Ochtretin, Eugine Feay Agne, Charlier; 1 November, 1841, Cecil Bercier; 21 November, Angelique Plomondon; — December, 1841, Elizabeth Kwith, Peter Bercier; 25 December, 1841, Lewis Bercier, by Rev. Modest Demers. Vancouver Records, pag. 65, 66, 67, 68, vol. I.

2 January, 1842. Baptisms.—Rosalie Walch; Joseph, Indian.

24 " 1842. Marguerite Sapete; 23 January, Sophia and Agnes Fihn, Domitilla Angela (Indian), Joseph Ceceles, Ealotin, Anastasia, Augustine, Andrew (Indians), by Rev. Modest Demers, priest. Vancouver Rec., page- 68, 69, vol. I.

22 February, 1842. Mary (Indian); 7 February, Michael Toninapoin; 20 February, Peter Hapat, Scholustica; 22 February, Anthony Kriston.

22 March, 1842. Cormele; 30 March, Therese, Skorale, Susane Schinook; 19 June, 1842, John Fraser, Alexandre, Marguerite, Peter Fraser, by Rev. Modest Demers, priest. Vancouver Rec., page- 70–72.

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1 November, 1841. Cyprian (Indian); Mary McDonald; 19 November, Michel (Indian).

20 " Dominie Faron, by Rev. J. B. Bolduc, Pr. Vancouver Rec., p. 76.

Jan'y 29, " Louisa Faron, Narcisse Faron, John Bapt. Bowchard, Francis Guilban, Francis Mamiscour, Charles Langlois, Filiate Delanois, Catherine Delanois, Simon Plomondon, Isabel Bercier, Theresa Sigilis, Julia Serpente, Guillimans McDonell, Elizabeth Semas, Mary Tete Plate, by Rev. J. B. Bolduc, Pr. Vancouver Rec., page- 74, 75.

May 1, 1843. Cecelie Cottonoir, by Rev. J. B. Bolduc, Pr. Vancouver Rec., page 76, volume 1, Baptisms, October, 1842.

12 October, 1842. Marguerite (Indian); 17 October, Joseph, Mary (Indians).

10 November, 1842. John Fenley, Catherine (Indian), Jeanne (Indian), Stanislais, Cecele, Mary, Betsy, Margrerite, by Rev. F. N. Blanchet, Pr. Vancouver Rec. 1, page- 1, 2, 3.

15 November, 1842. Scholastique Herouse; 20 Nov., James Scarborough; 19 Nov., 1842, John McLaughlin; 21 Nov., 1842, Antony Angeleca, Jane, Peter,

Susanne, Juliette, Andrew, Esther, Julia, Philipe, by Rev. F. N. Blanchet, Pr. Vancouver Rec., page- 3, 4.

24 November, 1842. Baptism Andrew Burney; 25 Nov., Nancy (Indian), Cyprian Adrien, Adrienne, Pelayie (Indians).

18 December, 1842. Augustine McKlean, Alexander Pambrun; 24 December, Charles Bell, Thomas Pambrun, by Rev. F. N. Blanchet, Pr. Vancouver Rec., page- 8, 10, 11.

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Jan'y 2, 1843. Vinent, Raphael, Manel, Anna, Mary, Julie, Magdaline, Catherine, Dorothea, Colletta, Louis, Julia (Indians).

12 Jan'y, 1843. Elizabeth Crate; 14 January, 1843, Scholartique, Mary Theresa, Peter, Indians, by Rev. F. N. Blanchet. Rec., pa. 13, 14.

14 Jan'y, 1843. Amelia (Indian); 15 January, Agatha, Thomas, Martin, Mary, Marie, Francis Havier, John, Michel, Rosalie.

15 Jan'y, 1843. Alexander Poirier, Baissile, Barile Poirier, Pierre Poirier, Francis Caille, Henrietta Caille, Catherine (Indian-).

16 and 17 January, 1843. Mathew, Mary, Lisette Angela Betsy (Indians), by Rev. F. N. Blanchet, Pr. Vancouver Rec., page- 15, 16, 17.

19 March, 1843. Catherine Murplite, Theresa (Indian), Charles Hord, Louis Ohyhee.

25 March, 1843. (Indians) Jane, Anthony, Lulie, Theresa, Joseph, Catherine, Mary Poupple; 8 March, 1843 (Indians), Mary, Joseph, Thomas, Catherine; 19 April, 1843, Mary Waguencer; 24 April, Catherine, Indian, by Rev. F. N. Blanchet, Pr. Vancouver —, page- 20, 21, 22.

18 June, 1843. Francis Mary Ermatinger; 21 June, Joseph Boucher, Catherine.

26 June, 1843. Susanne (Indian); 24 July, 1843, Geneveva, by Rev. A. Langlois, Pr. Vancouver Rec., page- 22, 23, 24.

15 October, 1843. James, Indian; 17 October, '43, Louis, Axandre; 20 October, Catherine.

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29 October, 1843. Monica, Malouin; 20 October, Anna, Elizabeth (Indians), by Rev. Modest Demers, Pr. Vancouver Rec., page- 25, 26.

5 November, 1843. John Latte; 19 Nov., Mary Adeline Liard; 25 Nov., Lifroy (Indian).

4 December, 1843. Anna, by Rev. M. Demers, Pr. Vancouver Rec., page- 27, 28.

24 December, 1843. Baptism of Joseph; 26 December, '43, Emily Popothi; 27 December, 1843, Peter Azur, Thomas (Indian); 28 Dec., Andrew, Kannack, by Rev. F. N. Blanchet. Vanc. Rec., pg. 28, 29.

January, 1844. 1 —, Joseph (Indian); 2 Jan'y, Isadore, Napal (Indians), Peter Andrew, Susanne, Sarah, Thomas, Judith, Simon, James, Phillip, Paul, John Baptiste, Helena, Joseph; 3 Jan. (Indians), Elizabeth, Henrietta, Apphonia, by Rev. Mod. Demers and F. N. Blanchet. Vancouver Rec., page- 29, 30. 9 Jan., Lucia, Dick; 11 Jan., Indians, Perpetina, Adrian; 28 Jan., Marguerite Smith, Louisa Deschamps, Louise Cadetta, Nancy Norman, Lisette Azure, Betsy Beanliew, Thomas Smith, Anthony Deschamps; 29 Jan., Thomas Ply, by Rev. F. N. Blanchet, Pr. Vancouver Rec., page- 31, 32, 33.

February, 1844. Mary Ann Laird; 17 February, Rosalie (Indians); 4 Feb., 1844, Augustine Dovet, Catherine Petrain; 6 March, Gregory Johnson.

March, 1844. 21 March, baptism of twenty-two Indian children by Rev. F. N. Blanchet, Pr. Vancouver Rec., page- 35, 36, 37, 38.

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April, 1844. 9 April, Moise Mamneta; 12 April (Indians), Augustine, Angelica Francis Xairie Paul; 15 April, Anustasia; 16 April, Alice Douglass; 26 April, Marie (Indian), by Rev. F. N. Blanchet, Pr. Vancouver Rec., page- 39, 40.

June, 1844. 23 June, Marie McBean, Jane Boucher, Siphie Boucher, by Rev. M. Demers. Vancouver Rec., page- 40, 41.

June 27. Basile (Indian); 14 June, Louise, Mary (Indians); 30 June, John McPhail.

July 4. (Indians) Anthony, Sophie, Joseph, Mathias, Mathias; July 9, Ambrose (Indian), Lisette Portewse; 10 July, Nancy McKay, by Rev. Demers and Rev. F. N. Blanchet. Vancouver Rec., page- 42, 43.

August, 1844. 1 Aug., Stephen (Ind.), Susanne (Ind.), Marguerite, Peter, Larella; 11 August, Nancy, Ind., by Rev. M. Demers. Vancouver Rec., p. 44.

Baptisms.—11 August, Susanne; 12 August, Joseph, Marguerite; 15 August, Helena; 16 August, Susanne, Lalty; 18 August, Michel; 19 August, Theresa; 20 August, Joseph; 20 August, Fr. Xavier; 23 August, M.

Anne; 25 August, Mary Anne; 31 August, Joseph.

September, 1844. Francis, Helena, Peter; 2 Sept., John McKay; 4 Sept., Louisa Francis; 8 Sept., Louise Rondeau; 9 Sept., M. Anne, James Taylor; 13 Sept., Gregory; 17 Sept., Napoleon Daise; 19 Sept., Baptiste, by Rev. M. Demers. Vancouver Rec., page- 45–51.

291 20 Sept., Fr. Xaiver; 21 Sept., Marie; 26, Dominica; 27 Sept., Rose.

October 18, 1844. 2 October, Eugene; 3 Oct., Theresa; 7 Oct., Catherine, Marguerite, Pauline; 10 October, Paulinas; 15 Oct., Adelaide, Angela; 20 Oct., Peter; 24 Oct., Gaspar; 30 October, Charlotte; 31 October, Michael.

November, 1844. 1 Nov., Francis, Paulina; 11 Nov., Magdalena; 17 November, Joseph, Mary, Anna.

December, 1844. Marie, by Rev. John Nobile, S. J. Vancouver Rec., pag. 51, 52, 53.

January, 1845. Francis Xavier; 16 Jan., Maria; 23 January, Judith Ducheny; 23 Jan., Watsoka; 26 Jan., Sophia McBean.

March, 1845. 9 March, Helena Latourre; 25 March, William (Indian), Louisa, Cecelia.

April, '45. 1 April, Angela, Joseph Tibo; 27 April, Richard Jaquet, Peter John, Mme. More.

May, 1845. 2 May, Ignace Morice; 3 May, Xavier; 4 May, Tournillier, Helane Poivrrer; May 5, Lurois; 8 May, Pakawatash; 11 May, Marguerite; 12 May, Angela Lewis; 14 May, John (Indian).

June, 1845. 8 June, Rosa; 10 June, Adelaide, McKay; 11 June, Lewis Wein, Lewis Shanna; 13 June, Lisette; 16 June, Mary; 25 June, Baptiste Rosa Wagner, by Rev. John Nobile, Pr. Vancouver Rec., page- 55, 56, 57, 58, 59, 60.

292 June, 1845, baptisms.

13 June, Jane McIntosh, Mary McIntosh, Joseph Petrain, by Rev. P. Devose, S. J. Vancouver Rec., page 60.

September, 1845. Peter on 14 Sept.; 15 Sept., Henrietta, by Rev. A. Langlois, Pr., 61, 62.

Sept. 1, Mary; 20 Sept., John Baptiste Dechamps, John.

October, 1845. 24 Oct., Mary McClean.

26 Oct., John James Collings.

31 " Alphonso (Indian).

2 November, Susanne Descrockes.

7 " Simon Gill.

21 December, John James Barclay.

26 December, George Johnson, by Rev. P. De Vos, S. J. Vancouver Rec., vol. 1, page- 61, 62, 63, 74, 65, 66, 67, 68.

January, 1846. 4 January, Mary Courtuier.
8 January, Susanne (Indian), Sophie (Indian).
20 February, James Shov.
3 March, Paul (Indian), Catherine (Indian).
21 " Catherine (Indian); 26 March, Sophie (Indian).
23 L" Louis (Indian).
29 " Alexander, Lottie, Mary, Theresa (Indians), by Rev. P. De Vos, S. J. Vancouver Rec., page- 68 to 72.
5 May, Mary Jane Baron, by Rev. —— Accolti, S. J., page 73.
(July.) 12 July, Moses Rabbi.
22 September, John (Indian).
293 24 September, Mary, Marguerite (Indians, Cascades).
25 October, Louis Andrew, Douchenay.
3 November, Marguerite Douglas.
9 " Geneveva (Indian).
20 December, Joseph Ordre, Petrain, by Rev. P. De Vos, S. J. Vancouver Rec., 73, etc.

1847, baptisms.

1 January, Catherine (Indian).
3 January, Sophia Stanger.
20 March, Alexander Fobster.
31 March, Francis (Indian).
4 April, Catherine Grant.
2 May, Peter Thomas Barclay, Jeannice Petrain, by Rev. P. De Vos, S. J. Vancouver Rec., page- 78, etc., to -1.
18 May, Charles Donald, McBean, William Wilson, Michael Lambert, Catherine Brisboise, Angela Brancheau.
3 July, John Andrew Lane, by Rev. J. Joset, S. J. Vancouver Rec., page- 81, 82.
16 August, Mary Presse Lucina (Indian); Elizabeth Umqua, by Rev. Demers.
3 October, Basile, Denoiz, by Rev. Delevand.
14 " John Caslew.
23 " Francis (Indian); 3 November, Rose (Indian).
15 November, Victor Emcisor.
18 " Francis Kanaka.
21 " Emilie (Indian).
294 22 November, Mary Contus; 24 November, John Baptiste Cooper.

7 December, Mary (Indian).
13 " Mary (").
16 " Mary, Rosalie, Louise Francis (from the Cascades).
17 December, Peter (Indian).
18 " Joseph, Paul.
21 " Peter Devoche, Joseph (Indian).
27 " Mary, Indian; John (Indian); 29 December, Louise (Indian); 30 Dec'r, John Baptiste (Indian), by Rev. Delevand. Vancouver Rec., page- 83 to 89.

1848, baptisms.

2 January, Stephen (Indian).
3 January, Mary (Indian); Anchony (Indian).
5 " Phillipe (Indian).
6 " Mary, Indian; Louise (Indian); Michel (Indian).
20 " Thomas (Indian), chief of Cascades.
30 " Isaac Sabille.
2 February, Mary (Indian).
21 " Michele (Indian); Neronne (Indian).
3 March, Rose (Indian).
20 " Joseph Maurice Peter Paul Mary Anna, Louisa, Jane (Indians).
295 26 March, Richard Howe.
1 April, Francis (Indian).
14 " Maxime (").
22 " Mary, Louisa, and Susanna; Matheta Crosby.
2 May, James Johnson.
22 " James Coqueral.
29 " Archibald and Catherine Burnette.
2 June, Lawrence, Daguenet.
3 " Louise Coldur.
5 " Rachel Crosby.
15 " Anna (Indian).
27 " Henrietta Eugenie Wilson.
1 July, Mary, Indian.
By Rev. Delevand, Pr. Vancouver Rec., volume 1, page- 89 to 98.
1848. 4 July, Rose (Indian).
31 " Joseph (Indian). By Rev. S. A. Sebas, Pr., pag- 98, Vancouver Rec.
31 August, Narcissa Montiguy. By Rev. Delevand. Vancouver Register, page- 98, 99.

296 *Extract from the Records of St. James Mission of Vancouver, Wash. Ter.*, 1838 *to* 1848.

Burials. Vancouver Rec., page 24, vol. 1.

1839. January 11, Louisa (Chinook Indian).
" 16, Louisa Tilamook.
" 16, Mary (Indian).
By Rev. Modest Demers, Pr. Vancouver Rec., pag. 23, 24.
April 12, John Baptiste, Klickitat.
April 8, Mary Sookies. By Rev. M. Demers. Vanc. Rec., page 37.
May 20, Peky (Indian).
" Catherine Masten. By Rev. M. Demers. Van. Rec., page 44.
1840. 13 February, Mary (Chehalis Indian).
2 March, Mary Helokometz (Indian). By Rev. M. Demers. Vancouver Record, vol. I, page 58.
1841. 5 June, John Baptiste, Lefevre. By Rev. Mod. Demers. Van. Rec., page 65.
1842. 23 March, Alexander (Indian). By Rev. M. Demers. Van. Rec., page 69.
20 June, John Simpson. By Rev. M. Demers. Vanc. Rec., page 72, vol. I.
1843. 21 June, John Boucher. By Rev. A. Langlois. Van. Rec., page 23, vol. I.
12 October, John McLaughlin. By Rev. A. Langlois. Vanc. Rec., page 25, vol. I.
19 October, James (Indian). By Rev. M. Demers. Vanc. Rec., page 26, vol. II.

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1844. 3 January, Stainislias (Indian), by Rev. F. N. Blanchet. Vanc. Rec., page 30, vol. II.
11 Jan., Peter Azur, by Rev. F. N. Blanchet. Vancouver Rec., page 31, vol. II.
6 February, Felix Lenarde, Californien, by Rev. F. N. Blanchet. Van. Rec., page 35, vol. II.
4 March, Johnson, by same. Vanc. Rec., page 37, vol. II.
9 March, Peter Chrysol Pambrun, by same.
10 March, Gregory Johnson,
21 " Henrietta Groslois,
6 April, Henrietta (Indian),
8 " Catherine Petrain,
} By Rev. F. N. Blanchet, Pr. Vancouver Rec., vol. I, page- 37, 38, 39.
1844. April 16, burial of Sara Pamburn, by Rev. F. N. Blanchet. Vancouver Rec., page 39, vol. I.
2 July, Marguerite (Chinook Indian), by Rev. Modest Demers, Pr. Vancouver Rec., page 42, vol. II.

10 July, Lisette (Indian),
18 " Basile Poinier,
31 " Louise, Mary, Frank (Indian),
2 August, Stephen (Klickitat (Indian),
} Vancouver Rec., page 43, vol. II, by Rev. Modest Demers, Pr. Vanc. Rec., page 44, vol. II.

" " Peter Lancelle.
" " Marguerite (Klickitat Ind.).
13 " Joseph.
13 " Susanne Duperre.
15 " Helene Vitrier.
18 " Susanne (Chinook Indian).
11 " Lucy.

298 22 August, Fr. Xavier (Kanak Ind.).
23 " Louis O'Kaissia.
28 " Mary Anne Potepoh.
Theresa (Chinook Ind.), Mary Anne (Chinook).
1 September, Joseph (Chinook Indian).
2 " Nancy " "
4 " Francis " "
4 " John McKay (Chinook Indian).
5 " Francis, Chinook Indians.
16 " Gregry, Klickitat Indian.
17 " Mary Anne, Chinook Indians.
By Rev. Modest Demers, Pr. Vancouver Record, page- 45 to 51, volume II.
2 October, Dominic Kwalassa.
10 " Theresa (Indian), by Rev. Noble.
21 " Peter Wattepachi " " " S. J.
26 " Eugune Witlass (slave).

1845. 18 January, Mary (slave), by Rev. Nopili, S. J. Vancouver Rec., vol. 1, page- 52, 53, 54.
25 January, Maria Tobian.
20 March, Joseph Moire (Iriquois).
5 April, Cecelia, by Rev. Nobile, S. J. Van. Rec., page- 55, 56.
Lesette Azure (no date given), by Rev. De Vos, S. J.
30 October, Alp Nonso.
30 November, Louis (Iriquois).
8 December, Henry L. Nonnand.

299 15 December, Helena, Cadette.
26 " Heloise Montmonton. Vanc. Rec., pag- 88, vol. I.

1846. 16 January, Joseph N. Petrain.
2 March, James (Nesqually Indian), by Rev. P. De Vos, S. J.
17 March, Joseph Gregory, by Rev. M. Demers.
24 May, Mary Elizabeth Beauliew, by P. De Vos, S. J. Page 73, Vancouver Rec.
1 June, John, Indian.
4 July, Mary, Indian.
25 October, Charles (Iriquois), by Rev. P. De Vos, S. J.

1847. 13 October, James Richard, by Rev. Delevand.
4 November, Rose, Shred (see remarks, page 84 Vancouver Rec., vol. I).
8 December, Basile Deyneau.
13 " James Hacquet.
14 " Marguerite Laflambois, Mary (Indian).
17 " Marguerite Beachamps (Indian).
19 " Joseph Fowment and Paul Cali.
20 " Marianne Wagner (Petrain), by Rev. Delevand, priest. Vancouver Rec., vol. I, page- 83, 84, 85, 86.
21 " Jeannie (Chinook).
23 " Rosalie Coraca.
29 " Peter Deroche.
30 " John Wampanana (Indian).
31 " James Barclay, by Right Rev. Demers.
1848. 3 January, Ocide Jos. Petrain, Louise (Indian).
4 " Anchomy (Indian), by Rev. Delevand.
300 6 January, Siphia Kinsnos, Joseph (Indian).
14 January, John Baptiste.
19 " Mary Cumakin (Indian).
20 " Michel Slahute.
25 " Peter (Klickitat Indian).
26 " Paulina (" ").
28 " Thomas Tomokin (Indian chief of the Cascades).
29 " Louisa (Klickitat).
13 February, Mary Kinsnos.
5 " Thomas Agononstha.
18 " Susanne " Mary Swalkuse, by Rev. Delevand, priest. Vancouver Rec., vol. I, page- 89 to 95.
19 March, Adele (Indian).
1 May, John Baptiste Moulton.
15 May, Marguerite Douglas.
19 June, Emily Dagnet.
3 July, Mary Kahara, by Rev. Delevand.
7 " John McPhail (by Rev. Lebas).
10 " Joseph (Indian).
13 September, Alexander Cairte (Indian).
12 December, Joseph Kinsor (Indian chief).
26 September, Mary, Theresa, McPhail, by Rev. Delevand. Page 95, etc., Vancouver Rec., vol. I.

301 *Extracts from the Records of St. James Mission, Vancouver, Washington Territory,* 1838 *to* 1848.

Marriages.

N. B.—Where no family names are given the parties are supposed to be Indians or slaves.

P. P.

December, 1838. 8th Dec., Peter Ch. Pambrun and Catherine Humperrille, by Rev. F. N. Blanchet. Vancouver Record, vol. I, page 18.

27 Adolphe Chamberland and Julienne Wattice, Francis St. Pierre and Ursula Gros Louis, Amable Petit and Susana Carraka, by Rev. F. N. Blanchet. Vancouver Rec., page 29.

29th December, Paul Guilbault and Katy Sakaian, Basile Parrier and Lucy (Indian).

" David Pampierre and Marguerite Souillier, by Rev. Modest Demers, Pr. Vancouver Rec., page- 1–22.

31 Dec., Thomas McKay and Isable Montour, by Rev. F. N. Blanchet. Vancouver Rec., page 23.

January, 1839. Jan. 7, John Baptiste Dolin and Nancy (Indian).

" 28th, Charles Peroulse and Mary (Indian), by Rev. Mr. Demers. Vancouver Rec., page 24.

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16 January, John Howard and Mary Lisette Duprate.

21 " Andrew Loustain and Mary O'Kanagan.

Joseph Despard and Lisette (Indian).

Peter Belique and Geneveva Martin.

Tousaint Parrier and Catherine (Indian).

John Baptiste Perrault and Angela (Indian).

Lewis Labonte and Marguerite (Indian).

Hyacinthe Larigence and Marguerite (Indian).

Andrew Pecaid and Nancy O'Kanagan, by Rev. F. N. Blanchet, Pr. Vancouver Rec., page- 25, 27, 28.

21 Jan'y, 1839. Marriages of Francis Rivet and Theresa (Indian).

Titaplate Anthony Rivet and Emily (Indian, Pen d'Orille).

Joseph Rivet and Rose Lacourse.

Joseph Delard and Lisette (Indian, Louchoube).

Charles Rondeau and Agatha Duprite.

January, 1839. 23, Stephen Lussier and Josephine (Indian).

Peter Deport and Marguerite (Indian, Cham—).

Francis Xavier La Desoute and Julia Gervais.

28 January, Joseph Gervaise and Marguerite (Indian).

Annable Ocrouet and Marguerite (Indian, Chinook).

Louisa Fourier and Catherine (Canaman Indian).

Peter Stamslias Jacquet and Victoria (Chinook).
William McCaty and Charlotte (Indian).
German Havogan and Nancy (Indian).

February, 1839. 1 Feb'y, Charles (Iriquois) and Marie Thomas (Indian).

303 21 January, Charles Plante and Agatha (Cayouse Indian), by Rev. F. N. Blanchet, Pr. Vancouver Rec., page- 28 to 34, exclusive.

4 February, John Baptiste Bouchard and Louisa (Indian).
11 February, Dominic Ferron and Josephine (Indian, Klickitat).
Lybrian Borgean and Josephine (Indian, Sack).
Peter S. Andrew and Mary (Indian, Cathlamet).
Michel Laferte and Josephine (Indian, Nez Perce).
John Baptiste Brute and Marguerite (Indian, Sack).
Joseph Cowdron and Louisa (Indian, Chinook).
Pascal Caille and Louisa (Indian, Kawthchoin).
Lewis Tetrain and Catherine (Indian, Kathlamet).
John Baptiste Leferre and Mary (Indian, Kawatchin).
Peter Guilbanet and Ermile (Indian, Kathlamet).
Lawrence Some and Josephine (Esik Indian).
By Rev. Mod. Demers. Vancouver Rec., 34 to 37, excluded.

Marriages.

April, 1839. 29 April, William Kitson and Helena McDonald; Joseph Pin and Marguerite (Pen. Oreille Indian), by Rev. Modest Demers, Pr. Vancouver Rec., page 41, acts performed at St. Paul's, see page 43 Record of Vancouver, signed by F. N. Blanchet, Pr.

May, 1839. 27, Ignace Losiere and Sophie (Shihibs Indian).
28, Joseph Rocher and Cecile ——.

June, 1839. 10 June, Peter Wagner and Mary (Stonis Indian).
17 June, Joseph Plouf and Theresa (Schihilis Indian), by Rev. Modest Demers, Pr. Vancouver Rec., page- 43, 44.

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July, 1839. Louis Oskanha and Charlotte, Chinook, on the 8th of July.
8 July, John Baptiste (Iroquois) and Judith (Walla Walla Ind.); Thomas Sowakos (Iroquois Indian)

and Francis (Walla Walla Indian); Mexis Aubichon and Mary Anne (Chinook Ind.).
9 July, Michael Laframbois and Emile Picard.
John Baptiste Dubriul and Marguerite (Youtka Indian).
Joseph McLaughlin and Victoria McMullin.
Lawrence Quintal and Mary Anne, Indian.
John Baptiste Dalcourt and Agatha, Indian.
11 July, Joseph Corneiller and Thomas (Spokane Insian).
Fabien Meloinne and Louisa (Iroquois Indian).
12 July, Louis Shagoskatska and Louisa Kalapaga (Indian).
13 July, Louis Ancent and Catherine Kohassa (Indian).
By Rev. F. N. Blanchet, Pr. Vancouver Record, page- 47, 48, 49, 50, 51.

March, 1840. On 28 March, Lawrence and Theresa (Indians).
Gregory Kepoulish and Mary (Indians). No date; page 62.
Anthony Duquet and Rose Fenly. No date; page 62.

December, 1841. Louis Delams and Elizabeth (Indian), by Rev. Modest Demers. Vancouver Record, page- 59 to 68, excluded.

21 April, 1842. Hilarie Guilban and Louisa (Walla Walla Indian).

7 June, 1842. Oliver Bonchard and Angelique (Okanogon).
Michel Conton and Sophie Plomondon.
By Rev. Modest Demers, Pr. Vancouver Record, page- 70, 72.

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10 November, 1842. Stephen (Iroquois) and Jany (Chinook).
John Fenlay and Catherine (Chinook).

19 November, '42. John McLaughlin and Catherine Wedin.

22 November, '42. Charles Dodd and Grace McCavish.

26 November, '42. Charles Desroches and Nancy (Chinook Ind.), by Rev. F. N. Blanchet, Pr. Vancouver Rec., page- 2, 3, 6, 9, 10, vol. II.

11 January, 1843. Abraham Rabie and Julie (Chinook).

14 January, '43. Peter Dorval and Emelie (Chinook).

14 " Narcisse Mortingny and Betsy (Chinook), Peter (Iriquois), and Angela Andre, Louis (Iriquois), and Lisette (Chinook).

19 April, 1843. Joseph Petrain and Mary Anne Wagner, by Rev. F. N. Blanchet, Pr. Vancouver Rec., page- 14 to 21, included, vol. II.

26 June, 1843. Joseph Brunel and Susanne (Cayuse Indian), by Rev. A. Langlois, Pr. Vancouver Rec., page 23, II vol.

3 Oct., 1843. James Scarborough and Anne Elizabeth (Chinook), by Rev. Modest Demers, Pr. Vancouver Rec., vol. II, page 27.

1844, January 9. Roch Duchenez and Marie Rondeau.

29 Jan'y, Thomas Smith and Marguerite (Indian), Anthony Deschamps and Lisette (Tsekilis Indian), Peter Cadette and Louise (Indian), Norman Henry and Nancy (Walla Walla Indians), Anthony Auzue and Lisette (Kalamour Indians), Joseph Beaulien and Betsy Kilamouk, Marins Hacquet and Helene Poirier, 11 February, by Rev. F. N. Blanchet, Pr. Vanc. Rec., page- 30, 32, 33, 34, 35.

11 February, 1844. Mamages Xavier Lvard and Mary Anne (Nez Perse Ind.), by Rev. F. N. Blanchet, Pr. Vancouver Rec., page 36, vol. II.
306

24 June, 1844. William McBean and Jane Boucher.

Edward Crete and Sophie Boucher, by Rev. Modest Demers, Pr. Vancouver Rec., page 41.

19 January, 1845. Peter Below and Catherine (Spokane Indian).

26 March, Joseph Dupere and Louisa (Indian).

29 March, Richard Grant and Helene Kitson.

27 April, Joseph Duchanne and Theressa (Indian).

12 May, Or. Joseph Beanchamp and Marguerite Deschaste.

9 June, Tousaint Tebo and Rosa (Chinook).

By Rev. John Nobili, S. J. Vancouver Rec., page- 55, 56, 57, 58, 59.

15 September, Joseph Tibeant and Henrietta, Indian, by Rev. Father Anthony Langlois, Pr. Vancouver Rec., page 61, vol. II.

20 October, Simon Gill and Mary (Indian).

6 November, Alexander Latte and Marie Catherine Siklas (Indian), by Rev. P. De Vos, S. J. Vancouver Rec., page- 65, 66.

2 January, 1846. Charles Proux and Mary (Indian, Chehalis).

12 January, Thomas (Iriquois Indian) and Louisa (Indian).

29 March, John McPhail and Mary Theresa (Indian, Cascades).

13 April, Anthony Azure and Mary Magdalena (Indian, Cascades).

Joseph Conture and Marie Josephine (Cayuse Indians).

26 Francis Sapranchoise and Mary Marguerite (Indian).

21 December, Edward Deglean and Marguerite Millet, by Rev. P. De Vos, S. J. Vancouver Record, pag*ins* 68, 69, 71, 72, 74, 77.

Marriages.

1847. 2 January, Francis Prow and Catherine, Chinook.

307 4 January, Michel Martineawx and Mary Catherine (Cascades Indian), Felix Lanbert and Catherine Lebrun, by Rev. P. De Vos, S. J. Vancouver Rec., vol. II, page- 78, 79.

1848. May 1, Charles Fissette and Mary Louise Crosby, by Rev. Delevand.

6 June, John Crosby and Rachel Brown, by Most Rev. F. N. Blanchet.

14 August, Joseph Petrain and Catherine Dollan, by Rev. W. Accolti, S. J. Vancouver Rec., vol. II, page- 97, 99.

Copy of Marriage of Mr. Petrain, Page 99, Vancouver Record.

1848. The fourteenth of August of the year 1800 and forty-eight, see*n* the dispensation of one *of* publication granted by Rev. Delevand, missionary at Fort Vancouver, I, the undersigned priest, missionary of the Company of Jesus, have received the mutual consent of marriage between Joseph, son of *Jmaes* Petrain and of the late Mary Anna, *place* of the parish of St. David, diocese of Montreal, widower of Mary Anna Wagner (on the one part) and Catherine, daughter of William Dolin and the late Elizabeth Royll, of Maie county, Ireland, and have given them the mutual blessing, following the rites of holy church, in presence of subsigned witnesses.

JOSEPH PETRAIN.
CATHERINE x DOLIN.

PETER BELLIQUE.
WILLIAM RYAN.
WILLIAM x DOLIN.

W. ACCOLTI, *S. J.*

308 Endorsement: In the district court of the 2nd judicial district of Washington Territory, at Vancouver. The Corporation of the Catholic Bishop of Nesqually, plaintiff, *vs.* The United States *et al.*, defendants. Exhibit No. (1) to deposition of Peter Poaps, a witness introduced in behalf of plaintiff. W. Byron Daniels, referee.

309 In the District Court of the 2nd Judicial District of Washington Territory, at Vancouver, Wash. T'y.

THE CORPORATION OF THE CATHOLIC BISHOP OF NESQUALLY, Plaintiff,
vs.
THE UNITED STATES *et al.*, Defendants.

Exhibit No. 2 to Deposition of Peter Poaps, a Witness Introduced in Behalf of Plaintiff. W. Byron Daniels, Referee.

310 EXHIBIT NO. (2) TO TESTIMONY OF PETER POAPS.

The register of baptism-, marriages, burials performed from the Red river exclusively to the Columbia river, and in particular on the Cowlitz river and on the other side of the mountains, have been prepared, collected, and registered by us, undersigned, priest missionary of the Mission of St. Francis Xavier, on the Cowlitz river, on the Columbia, for the year eighteen hundred and thirty-eight.

The following acts at Norway house, the 18th July, 1838. By Modest Demers, priest. Vol. II.

Register *og* the Mission of the Holy Name of Mary, Vancouver, containing eighty-two pages besides this one, marked and registered by us, undersigned, priest missionary of the Columbia, to serve as record of the baptisms, marriages, and burials to be performed at Vancouver and surroundings.

In part of what I have signed at Vancouver the 9th of November, 1842.

F. N. BLANCHET,
Missionary Priest.

311 Plaintiff next offers in evidence as a part of plaintiff's documentary evidence a copy of a letter signed by John Wilson, commissioner, addressed to John B. Preston, Esq., acting surveyor general of Oregon, Oregon City, dated General Land Office, August 18th, 1887, and certified on July 28th, 1887, by Honorable Wm. A. J. Sparks, Commissioner of the General Land Office, under the seal of his office, to be a true and literal exemplification of the official record of said letter in said office. No objection being offered, the same is received and filed by me and marked "Plaintiff's Documentary Evidence, Exhibit G," which the same is received and by me marked accordingly.

W. BYRON DANIELS, *Referee.*

ELEVENTH DAY, *August 12th*, 1887.

The same parties, by their attorneys, appeared as of yesterday pursuant to adjournment.

By consent plaintiff introduces as a witness on its behalf JOSEPH JOSET, who, being first duly sworn, testifies as follows:

Q. 1. State your name, age, place of residence, and occupation.

A. My name is Joseph Joset; I am 76 years of age; I reside at Spokane Falls, and by occupation a Catholic priest.

Q. 2. Of what country are you a native?

A. Switzerland.

Ques. 3. When were you first here, now known as the town of Vancouver?

312 A. In the year 1847.

Q. 4. How many times were you here during that year?

A. Twice—once in the spring and once in the fall.

Q. 5. How long did you remain the first time, in the spring of 1847?

A. In the spring I was here, and then went to the Willamette valley, and then returned here in going to Spokane Falls, and in the fall I first went to the Willamette valley, and then came here on my way returning to Spokane Falls. In the spring I stayed here several days with the priest, and then went to the Willamette valley, and then returned here and went up the river with the Hudson Bay Co.'s brigade, as it was called.

Q. 6. Was there a Catholic church building here when you first came here, in 1847?

A. Yes, sir.

Q. 7. Who, if any one, held or officiated at any religious services held in that church during the time you were here on your first visit?

A. The first time I could not tell. The second time it was Father Demers. Peter De Vos resided here, but I had called him away, and met him at Wallula as I came down.

Q. 8. How came you to call Father De Vos away from here? By what authority did you do so?

A. I was in charge of the Jesuit mission in this country.

Q. 9. Are you yourself a Jesuit priest?

A. I am—for 57 years.

313 Q. 10. When did you first come west of the Rocky mountains, and in what capacity?

A. In 1844, and in 1846 I was appointed superior of the Jesuit missions west of the Rocky mountains in Oregon. I came in 1844 in the capacity of a Jesuit missionary priest. Father De Smet was superior when I came, and I succeeded him. He left and appointed me superior.

Q. 11. You were then personally acquainted with Father De Smet, were you?

A. Oh, yes; I met him in St. Louis, and we lived here together in the mountains. I knew him well. He was here in 1842, 1845, and 1846 as superior of all the Jesuit missions in what was then called Oregon.

Q. 12. How much country was embraced in what was then called Oregon?

A. The State of Oregon and the two Territories of Washington and Idaho and all west of the Rocky mountains and north of California to the British line.

Q. 13. Look at the book which I now hand you, upon the title page of which are the picture of an Indian and a horse a- full speed, the Indian having a tomahawk in his hand, and over which

are the words "Oregon missions and travels over the Rocky mountains in 1845–'46," and under which picture are the words "By Father P. J. De Smet, of the Society of Jesus," and below which are the words "New York, published by Edward Dunigan, 1847," and say whether the P. J. De Smet there named is the same person De Smet of whom you have been speaking.

314 A. The same. He was the superior of the Jesuit mission here in 1846 and was my superior until he left, when he appointed me in his place, and I afterwards got an appointment from the head superior.

Q. 14. When do you remember first seeing this edition of this book?

A. I don't recollect; it was printed in New York when it was very difficult to communicate, and I cannot recollect when it first came out.

Q. 15. Please look at page 48, upon which are the following words, "The following clergyman are engaged in the Mission of Oregon," under which words appear several names, and state whether your name appears among them.

(Objected to because the book itself will show.)

A. Yes; I am the same person named there as Joset, Joseph.

Q. 16. With how many other of the persons there named and with which of them were you or have you been acquainted, if with any of them?

(Objected to because it is an indirect way to attempt to put that page of the book in evidence.)

A. With every one of them.

Q. 17. Where did you know them?

A. In the mountains in Oregon, as it then was, and with Langlois and Bolduce I was acquainted with here.

Counsel for plaintiff now offers to file said book with the referee and offers in evidence the pages thereof numbered from 13 to

315 50, inclusive, and from 96 to 101 thereof, inclusive, and page 228 thereof and the title page already testified to and the next succeeding page and the next page following thereafter, containing a letter from P. J. De Smet, dated New York, April 19th, 1847, and addressed to Rt. Rev. Dr. Hughes, bishop of New York.

Defendants object to the introduction of the books in evidence, and particularly objects to the offering in evidence of pages of said book and not the whole of the book.

Said book is now filed by me as Plaintiff's Exhibit No. 1 to the deposition of Joseph Joset, and the said several pages offered in evidence are received in evidence subject to said objection, and counsel for plaintiff now here consents that counsel for defendants may, if he shall desire, offer and read in evidence on behalf of defendants anything material to this case contained in said book with this understanding. Counsel for the defendants withdraws all objections to the filing of said exhibit in evidence.—W. Byron Daniels, referee.

Q. 18. How long have you been engaged as a missionary in missionary work among the Indians of North America?

A. Since the year 1844. I am still engaged in that work.

Q. 19. With how many other missionaries have you associated since you began your work, in 1844?

A. A great many; I could not name them all.

Q. 20. What constitutes a missionary stations among the Indians?

316 A. A chapel or a church, a dwelling-house for the missionary; that's all. In the beginning we commence under a canvas, and then little by little build more substantial habitations. Some stations consist of only a chapel and the residence of a priest. A missionary is sent to teach religion, and the mission is wherever he teaches and resides.

Q. 21. Suppose a priest, a minister of the gospel, should visit a place and remain there a few weeks or months preaching to and teaching the Indians, but erect no church, chapel, or other building there, what would you call that place, if you gave it any name?

A. A station, if he should visit it several times a year. We do not call it a mission until he has a residence there.

Q. 22. How often were you here between 1847 and 1853—I mean here at what is now called Vancouver?

A. I could not tell positively; nearly every year I had to come for supplies.

Q. 23. From whom did you obtain your supplies for which you came?

A. The Hudson Bay Company here.

Q. 24. Were those supplies donated to you or paid for by any one; if so, by whom?

A. The French Catholic Society for the Propogation of the Faith. They were paid for in London to the secretary of the Hudson's Bay Company there.

Q. 25. How were they transported from here to Colville & Cœur de Alene?

317 A. Different ways; sometimes by water to the Willamette valley and then by horses across the mountains, and sometimes by the Hudson Bay Co. by water up the Columbia river.

Q. 26. When the Hudson Bay Company transported your supplies was it done gratituitously?

A. No; they charged to The Dalles about one cent a pound and then to Wallula about two cents a pound.

Q. 27. Did you yourself hold any religious services in the Catholic church at Vancouver in 1847 on the occasion of either of your visits here?

A. I cannot tell positively; of course I said mass. Every time I spent a night here I said mass in the church—always in the church. Father Demers was residing here at that time.

Q. 28. How many of the priests named on page 48 of De Smet's book, which has been filed, are now living, so far as you know?

A. Myself, Hoecken, who lives in Wisconsin now; Langlois, who lives in Washington; Bolduc, who lives in Canada, I think.

Q. 29. Have you seen during your present visit to this place the same Catholic church building which you saw here in 1847; if so, where is it located?

A. Yes, sir; it was located west of the Hudson Bay Co.'s fort, outside, and it is just where it was when I saw it in 1847.

Q. 30. Who was chief factor of the Hudson Bay Co. when you first came here in 1847?

A. James Douglas and Ogden; they seemed to be equal in
318 the charge. I could not say who was superior in authority. I dealt chiefly with Mr. Douglas. I saw that it was Douglas who gave orders to the clerks, and when I wanted anything I went to Douglas for it.

Cross-examination:

Q. 31. Who was the head superior of the order of Jesuits, from whom Father De Smet received his appointment?

A. Father Verhaegen, at St. Louis. He had a successor named Vondavil, who sent me here. He was appointed in 1843.

Q. 32. Who appointed the head of the society of Jesuits or superior at St. Louis?

A. The head superior of the order in Rome, Father Rothan. He sent me from Europe to join Father De Smet.

Q. 33. Were Father Demers and Father Blanchet Jesuits?

A. No; neither was, Langlois or Bolduc.

Q. 34. Who sent Fathers Demers and Blanchet to this country?

A. The archbishop of Quebec.

Q. 35. What Catholic bishop had jurisdiction in what is now Oregon and Washington and Idaho when Fathers Blanchet and Demers came to the country?

A. It was doubtful. The question of the right to the country was not settled between the two governments. The bishop of Quebec was over those who started from Quebec and the bishop of St. Louis was over those from St. Louis. Father Blanchet was appointed vicar general by the archbishop of Quebec. In 1844 the question was settled because Father Desmet brought from Rome the appointment of Nobile Blanchet, who came with Demers in
319 1838 as vicar apostolic. He has the same power as the bishop, only he can be moved by the Pope to some other place. Blanchet and Demers never had any authority from the bishop of St. Louis when they came here.

Q. 36. You knew Father De Smet very well, did you?

A. Yes; I was very well acquainted with him.

Q. 37. He was a truthful man, was he?

A. Yes; he was a truthful man, of course.

Q. 38. You have read this book of his that counsel has offered in evidence?

A. Yes; but it was a very long time ago. I read some of the letters before that book was printed.

Q. 39. What do you say about his having given a truthful history of these mission stations and affairs in this country for the period of time embraced in this book?

A. I am able to verify many things that he says by my own experience. It is a truthful history. I could not now remember every particular.

Q. 40. Father Blanchet says in affidavit in Plaintiff's Documentary Evidence "B," to which I call your attention, "In April of the same year, 1840, I was at Nesqually instructing the Indians of that post, whence upon the invitation of the Indians of the lower part of Puget sound I proceeded down the sound visiting those Indians as far as Whidby's island, where I established a mission by planting a cross, teaching the Indians for some time, baptizing a great number of children, reconciling two belligerent tribes and estab-
320 lishing a lasting peace among them." Was that the usual way of first establishing a mission?

A. Of course, they began that way. That is a beginning, but afterwards they built a station.

Q. 41. Look at the map in the book which counsel for defendants no- offers in evidence (the book shown to the witness being Desmet's book, already filed as Exhibit One to this deposition), and the map being next to page 13 of the book and entitled "Oregon Territory, 1846," and look particularly at the point called Stuart's lake on the map, between the 126 and the 124th lines of longitude, where the word station and a cross, thus, "†," which is above the 54th parallel of latitude, and state whether you were ever at that point or not.

A. No, sir; I never went in that direction. The furthest I ever went over the Columbia was Okonogon lake.

Q. 42. Look at the word "Coudlits † Ch.," between the 124th and the 122nd lines of longitude and the 46th and 48th lines of latitude on the map, and state whether or not you were ever at that point.

A. Never.

Q. 43. Look at the words "† Oregon City," between the same lines of longitude and the 46th and 44th lines of latitude, and state whether or not you were ever at that place.

A. Yes; many times; in 1847 twice.

Q. 44. Look at the words "† St. Paul," just below "† Oregon City," to which I called your attention, and state whether or not you were ever at that point.

321 A. Yes; many times. I was there the first time in 1847; was there twice in 1847.

Q. 45. Look at the words "† New Church," just below "† St. Paul," to which I have called your attention, and state whether or not you were ever at that point.

A. I suppose that is what they call French prairie. I think I saw it once, when I lost my way in going to St. Paul. I think this was in 1847, but I have no certain recollection about that.

Q. 46. Look at the words "Mis. † St. Mary's," between the 114th and the 112th lines of longitude and the 48th and 46th lines of latitude, and state whether you was ever at that point.

A. Oh, yes; I was there several times. I was there in 1844, and after that I was there several times.

Q. 47. Look at the words "† M. Sacred Heart," between the 116th

and 114th lines of longitude and the 46th and 48th lines of latitude, and say whether you were ever at that point.

A. Yes; I lived there two years and have passed the place more than twenty times since the mission at that place was moved. It was moved in 1846 about 30 miles, to the Cœur de Alene river, called on the map "St. Joseph river." I myself moved the mission.

Q. 48. Look at the words "St. Reges," between the 118th and 116th lines of longitude and on the 48th parallel of latitude, and state whether or not you were ever at that point.

A. Yes; I used to go there every fortnight. The first time I was there was in December, 1844, and between 1851 and
322 1856 almost every fortnight.

Q. 49. Look at the words "Press Miss.," between the 118th and the 116th lines of longitude and between the 46th and 48th lines of latitude, and say whether or not that is the place where Spokane Falls is.

A. No; it is about 40 miles below.

Q. 50. What do the words "Press Miss." mean?

A. Presbyterian mission.

Q. 51. When was you first there?

A. I was there in 1853, and traveled that way since 1851, going to Walla Walla. The mission was abandoned in 1847.

Q. 52. How near was the Catholic mission to the Presbyterian mission?

A. There was never any Catholic mission there.

Q. 53. How far from Spokane Falls was the nearest Catholic mission established, and what name did they go by in the year 1848?

A. The two missions nearest to Spokane Falls was the St. Paul, near Colville, and the Mission of the Sacred Heart, on St. Jose river. In 1847 & 1848 the Catholic missions nearest Spokane Falls — St. Reges, about 70 miles from Spokane Falls, at a place now called Chewelah; then there was St. Paul, on the bank of the Columbia, near Colville, about 35 miles from St. Reges and about 100 miles from Spokane Falls; then there was the Mission of the Sacred Heart that I moved in 1846 to the Cœur de Alene river, and
323 it was about 90 miles from Spokane Falls.

Q. 54. Where was St. Ignatius mission?

A. It was on the bank of Clark's river. I have been there. I was there in 1845. It was moved in 1853 and 1854 to the upper waters of the same river on to an Indian reservation.

Q. 55. Where was St. Assumption mission?

A. I never went there, and know of no such mission. There was a station. Father Desmet traveled that way in 1845. There was no station properly. The place was visited several times afterwards, and a mission established in 1857, '8, '9, or 1860; I can't say positively.

Q. 56. Look at the letters "St. Assumption," between the 116th & 114th lines of longitude and the 48th and 50th lines of latitude, on this map, and say whether or not there is a Catholic church or mission at that place, and state what it is called.

A. I never was there; it is in British territory.

Q. 56. Where was St. Ignatius mission?

A. It was on Clark's bank, somewhere between Washington and Idaho.

Q. 58. Where was the mission of St. Francis Borjia?

A. I was never there; I know of no mission there.

Q. 59. Father, look at this map and tell me what these crosses indicate between the 44th & 50th parallels of latitude?

A. Missions or stations.

Q. 60. Do you mean that these crosses indicate churches?

324 A. Yes, there were churches.

Q. 61. Was there a church at St. Ignatius when you were first there, and what other buildings; and were there any lands under cultivation by the priests or for their use?

(Objected to.)

A. I was there first in 1845. I was there in 1846 & 1847, in the winter, and I wintered there in 1846, 1847, 1848, & 1849. In 1846 there was a rough shanty used as a church and a dwelling-house. In 1848 there was a stable and barn beside the dwelling and church and they had two fields of 50 acres each perhaps.

Q. 62. Were you at St. Reges in the years 1847 and 1848?

A. I may have passed there.

Ques. 63. In 1848, as near as you can recollect, what buildings and improvements were at St. Reges?

A. Hewed log buildings divided off into dwelling-house for the priests and for a church under the same roof; nothing else. The priests lived there; no one else.

Q. 64. Were you at the St. Paul mission, near Colville, in 1847 or 1848 or about that time?

A. I cannot tell the year exactly. I was there in 1844 and no church — there then. A church was built in 1845. There was nothin- there in 1844 except a Hudson Bay house near by. In 1847 they had a church building and a room for the priest under the same roof, and I sent a priest to reside there. It was the same in 1848.

Q. 65. What was at the Mission of the Sacred Heart in 1848?

325 A. A church, dwelling-house & I think a barn & land under cultivation—about 40 acres—and it was increased every year.

Ques. 66. Was there a Catholic church at Cowlitz, Oregon City, St. Paul, and New Church (French prairie), on the Willamette river, in Oregon, in 1847?

A. There was one at Oregon City, one at St. Paul, one at Vancouver.

Ques. 67. Describe the buildings that was at Oregon City then?

A. There was a wooden frame building for a church, a dwelling for the priest; no land under cultivation or barns or stables. At St. Paul there was a brick church, a convent school-house, a frame building.

Ques. 68. Who had charge of the land and country immediately around Vancouver in 1847, the first time you were here?

A. The Hudson Bay Co.

Ques 69. Did the Hudson Bay Co. contribute to the support of the priests in this country of your faith after you came here?

A. I know of nothing that they did. We bought the goods from them and paid for them. I don't know of anything they contributed.

Q. 70. Father F. N. Blanchett says that in 1842 he got a letter from John McLaughlin, chief factor of the Hudson Bay Co., that he was instructed to place 100 pounds sterling to the credit of the mission. Did the Hudson Bay Company contribute annually to the support of the mission?

A. I know of nothing from the company. Our own mission
326 was a Jesuit mission. I believe they did contribute, because they preached to the servants, but of this I have no knowledge of my own. I only know they had a law that required them to *to* furnish to their servants means to practice their religion. This was a regulation of the Hudson Bay Company. I know this by hearsay.

J. JOSET, *J. J.*

VANCOUVER, WASHINGTON TERRITORY, *April 6th*, 1888.

By consent of parties to this suit, plaintiff offers in evidence certain documentary evidence, to wit, the deposition of Antoine Langlois taken in pursuance of a stipulation of both parties to this suit.

(To which evidence the defendants object as immaterial.)

And the same is received and filed by me as a part of this report, subject to said objection, and is marked by me Plaintiff's Documentary Evidence "H."

W. BYRON DANIELS, *Referee.*

Plaintiff next offers in evidence certain documentary evidence, to wit, the deposition of B. J. Balduc taken in pursuance of a stipulation of the parties to this suit.

(To which evidence the defendants object as immaterial.)

And the same is received and filed by me as a part of this report, subject to said objection, and is marked by me Plaintiff's Documentary Evidence "I."

W. BYRON DANIELS, *Referee.*

327 Plaintiff next offers in evidence certain documentary evidence certified by Hon. Wm. A. J. Sparks, Commissioner of the General Land Office of the United States, under the seal of his office, on October 20th, 1887, and which is a certified copy of the accounts kept by the Hudson's Bay Company at For Vancouver, sale shop of supplies furnished by the company to the Catholic mission.

(To which the defendants object as immaterial.)

And the same is received and filed by me as a part of this report, subject to said objection, and is marked by me Plaintiff's Documentary Evidence "J."

W. BYRON DANIELS, *Referee.*

Plaintiff next offers in evidence documentary evidence certified by Hon. Wm. A. J. Sparks, Commissioner of the General Land Office of the United States, under the seal of his office, on October 20th, 1887, and which is a certified copy of certain affidavits of Frederick H. Ramsey, Lloyd Brook, and Rufus Ingalls.

(To which the defendants object as immaterial.)

And the same is received and filed by me as a part of this report, subject to said objection, and is marked by me Plaintiff's Documentary Evidence "K."

W. BYRON DANIELS, *Referee.*

Plaintiff next offers in evidence documentary evidence certified by Wm. A. J. Sparks, Commissioner of the General Land Office of the United States, under the seal of his office, on June 4th, 1887, and which is a certified copy of certain instructions to the
328 surveyor general of Washington Territory.

(To which the defendants object as immaterial.)

And the same is received and filed by me as a part of this report, subject to such objection, and is marked by me Plaintiff's Documentary Evidence "L."

W. BYRON DANIELS, *Referee.*

Plaintiff next offers in evidence documentary evidence certified by W. S. Austin, register U. S. land office, Vancouver, W. T., on October 31st, 1887, and which is a certified copy of the notification and proof of William Rayain's donation land claim (to which the defendants object as immaterial), and the same is received and filed by me as a part of this report, subject to said objection, and is marked by me Plaintiff's Documentary Evidence "M."

W. BYRON DANIELS, *Referee.*

Plaintiff next offers in evidence documentary evidence certified by James A. Snodgrass, auditor of Clarke county, W. T., under the seal of his office, on the 20th day of February, 1888, and which is a certified copy of the patent of the United States to William Ryan & Susannah Ryan's donation land claim (to which the defendants object as immaterial), and the same is received and filed by me as a part of this report, subject to said objection, and is marked by me Plaintiff's Documentary Evidence "N."

W. BYRON DANIELS, *Referee.*

Plaintiff next offers in evidence documentary evidence certified by W. S. Austin, register United States land office at Van-
329 couver, W. T., on October 31st, 1887, and which is a certified copy of the notification and proof of Amos M. and Esther Short's donation land claim (to which the defendants object as immaterial), and the same is received and filed by me as a part of this report, subject to said objection, and is marked by me Plaintiff's Documentary Evidence "O."

W. BYRON DANIELS, *Referee.*

Plaintiff next offers in evidence documentary evidence certified by James A. Snodgrass, auditor of Clarke county, Washington

Territory, under his seal of office, on the 6th day of February, 1888, and which is a certified copy of the patent of the United States to Amos M. & Esther Short (to which the defendants object as immaterial), and the same is received and filed by me as a part of this report, subject to said objection, and is marked by me Plaintiff's Documentary Evidence "P."

W. BYRON DANIELS, *Referee.*

Plaintiff next offers in evidence documentary evidence certified by W. S. Austin, register, and John O'Keane, receiver, of the U. S. land office at Vancouver, Washington Territory, on October 14th, 1887, which is a certified copy of the donation claim of William Ryan & Amos M. & Esther Short (to which the defendants object as immaterial), and the same is received and filed by me as a part of this report, subject to said objection, and is marked by me as Plaintiff's Documentary Evidence "Q."

W. BYRON DANIELS, *Referee.*

330 Plaintiff next offers in evidence certain documentary evidence, to wit, a letter in the French language and a translation thereof into the English language of Alexander Guaseo, secretary of the Central Council of Paris, to Agedius Junger, bishop of Nesqually, and stipulation therewith (to all of which the defendants object as immaterial), and the same is received and filed by me, subject to such objection, as a part of this report and is marked by me Plaintiff's Documentary Evidence "R."

W. BYRON DANIELS, *Referee.*

Whereupon the plaintiff now here rests its case.

W. BYRON DANIELS, *Referee.*

The end of vol. 2.

331 CATHOLIC BISHOP OF NESQUALLY *vs.* THE UNITED STATES *et al.* } Referee's Report, Vol. 3.

Plaintiff's Documentary Evidence "A and B."

VANCOUVER, WASHINGTON TERRITORY.
Filed November 12th, 1888.

A. REEVES AYRES, *Clerk,*
By W. F. JOHNSON, *Deputy.*

"D." W. H. W. D. T. J. W. R. A. W. D. S.

DEPARTMENT OF THE INTERIOR,
GENERAL LAND OFFICE,
WASHINGTON, D. C., *April 2nd,* 1887.

I, Wm. A. J. Sparks, Commissioner of the General Land Office, do hereby certify that the annexed copies, namely, letters dated September 29th, 1859, and December 19th, 1859, from this office to the U. S. surveyor general, Olympia, Washington Territory;

Letters dated January 23rd, 1862, from the U. S. surveyor general, Olympia, Washington Territory, to this office;

Report of Anson G. Henry, U. S. surveyor general, Washington Territory, referred to in said letter of January, 23rd, 1862;

Letter dated May 9th, 1872, from this office to U. S. surveyor general, Olympia, Washington Territory;

Field-notes of the survey of St. James mission claim, in section twenty-seven, township 2 north of range 1 east of the
332 Willamette meridian, Washington Territory, executed July 10th, 1872, by Levi Farnsworth, deputy surveyor;

Tracing of diagram showing lines of survey and notations of St. James Catholic mission claim as surveyed July 10, 1872, by Levi Farnsworth, U. S. deputy surveyor, furnished this office in 1872 by L. P. Beach, surveyor general of Washington Territory;

Letter dated October 30th, 1872, from T. Mesplie, agent of the R. C. church, to this office;

Letter dated August 4, 1883, from this office to U. S. surveyor general, Olympia, Washington Territory, decision;

Letter dated October 6, 1883, from Curtis and Burdett to this office, enclosing notice of appeal and specification of errors from said decision of August 4, 1883, to the honorable Secretary of the Interior, and notice of appeal and specification of errors above referred to and proof of service thereof are true and literal exemplifications of so much of the records and files of this office as they purport to show in the matter of the "St. James Catholic mission claim," located by survey in township two north, of range one*w* east, Willamette meridian, Washington Territory.

In testimony whereof I have hereunto subscribed my name and caused the seal of this office to be affixed, at the city of
[SEAL.] Washington, on the day and year above written.

WM. A. J. SPARKS,
Commissioner of the General Land Office.

333 GENERAL LAND OFFICE, *September* 29, 1859.

James Tilton, Esq., surveyor general, Olympia, Washington T'y.

SIR: Application has been made to the department by the Rev'd J. B. A. Browellet for instructions to the surveyor general in Washington Territory to survey and set apart what is known as the St. James Catholic mission claim, in virtue of the confirmation of such claims by the 1st section of the act of Congress approved August 14, 1848, establish*ed* "the Territorial government of Oregon," in which it is declared "that the title to the land not exceeding" 640 acres, then "occupied as missionary stations among the Indian tribes in said Territory, together with the improvements thereon, be confirmed and established in the several religious societies to which said missionary stations respectfully belong."

The location of this mission places it on a tract of country which it is understood has been claimed under the 3rd article of the treaty concluded in 1846 between the United States and Great Britain, in which it is agreed that "the possessory rights of the Hudson Bay

Company and of all British subjects who may be already in the occupation of land or other property lawfully acquired within the said Territory shall be respected."

We gather from a connected plat of the Territory that the country on which these possessory rights existed is on the north side
334 of the Columbia river, extending from townships 2 to 4 north, range 1 west, and township 2 north, ranges 2 and 3 east, embracing some 60,000 acres. It is claimed on the part of the mission that these possessory rights are now extinct by the expiration of the charter on the 30th May last of the Hudson Bay Company, and in support of this averment reference is made to the report of the select committee on the Hudson Bay Company, communicated from the Commons to the Lords in the year 1857, and dispatches of the 16th July and 14th August, 1858, from the British minister, Sir Edward B. Lytton, to Governor Douglas, of British Columbia.

The report distinctly shows the possessory right was merely a license to the company to trade—did not convey title to the soil—and one of the dispatches of 16th July, 1858 (according to the transcript furnished by Rev. Mr. Browillet), explicitly declares that "the legal connection of the Hudson Bay Company with Vancouver island will shortly be reserved by the resumption of the crown of the grant of the soil," and adds that "the legal rights on the continent opposite terminates in May next" (1859).

The possessory privileges thus shown to be extinct, the title of the United States is disencumbered and *because* absolute in the premises, and consequently they are no longer an impediment to the survey of the lands formerly covered thereby.

You will therefore proceed to extend the lines of the public surveys over the tract of country in question where the afore-
335 said possessory privilages have become extinct, will make regular returns of survey, and transmit approval, township plats thereof, laying off the mission on the principles laid down in the 6th section of the act of Congress, approved 27th September, 1850, U. S. Statutes, vol. 9, page 498, and appropriately representing it on the plat of the township in which the same may be situated, and will, of course, properly designate on the official plats the tracts reserved by the United States for military or other purposes.

Very respectfully, your ob't servant,

JOS. L. WILSON,
Acting Commissioner.

GENERAL LAND OFFICE, *December 19th*, 1859.

James Tilton, Esq., surveyor general, Olympia, Washington Territory.

SIR: In the instructions to you from this office of the 29th September last reference is made to the extinction of the possessory rights of the Hudson Bay Company by reason of the expiration of their charter, and in directing the lines of the public surveys to be extended over the same you are directed to lay off the Catholic mission claim and appropriately represent it on the township plats, as

also the tracts reserved by the United States for military or other purposes.

I now enclose herewith a copy of a letter of this date from the Honorable Isaac J. Stevens, showing that, in addition to
336 (first) the Catholic mission claim and (2d) the United States military reservation tract, there are other claims, viz., (3) the Vancouver town site tract (see act of 23rd May, 1844, U. S. Statutes, vol. 5, page 657, chap. 17), and (4) the donation claim of Mrs. Short.

The purpose of this is to call upon you to make a special report in regard to the several claims in question, the basis and proper extent of the same, giving reference to the date of the origin of these claims and the extent which should be lawfully awarded to each, according to the evidence before you, and in case your files do not furnish complete data in each case you will call upon the parties representing the mission, town, and Short claims and the military authorities for all the information they have bearing upon the several claims, the extent, priority, etc., and will afford them an opportunity of being heard.

When the record is made complete you will make your report, showing your decision upon the merits and extent of each of said claims, with an illustrated map.

Very respectfully, your ob't se'v't,

JOS. S. WILSON,
Acting Commissioner.

SURVEYOR GENERAL'S OFFICE,
OLYMPIA, W. T., *January 23rd*, 1862.

SIR: I send you by the hand of our chief justice, C. C. Hewitt, my report on the contested claims to land in and near and
337 including the town site of Vancouver, in the Territory. The great length of time these claims have been in controversy, together with their importance, involving, as they do, the title to the land on which the city of Vancouver is built, and also involving most of the military reserve at Vancouver, together with the number of parties in interest, and the fact that the whole Catholic church feel a very great interest in their settlement, have induced me to devote a very large share of my time since I took possession of the office in the consideration of the complicated questions involved and in a careful examination of the evidence elicited in the hearing of the case by my predecessor in April, 1860.

It has cost me much more time and labor in making up a report than it would have cost him, and it will not be expected that my report will prove as satisfactory to the department as one would have been from my predecessor, General Tilton, who has been so long and so intimately connected with the case, while I was not even aware that such a case was pending until I came into the office, some four months ago. But for the very valuable assistance I have received from Elwood Evans, Esq. (who is connected with the office and who is the best lawyer I know on the Pacific coast), in furnishing

me with the authorities bearing upon the case I should not have been able to submit a report for months to come.

The papers filed in the case, including the written arguments, are very voluminous, and would require the labor of several clerks
338 for weeks to copy them. Very many of them could not be replaced if lost, and hence I conclude a copy should be made for transmission to your department.

Not having a clerical force to spare for the work without neglecting the current business of the office, I have thought best to forward my report by this safe opportunity and await your instructions as to what disposition shall be made of the papers pertaining to the case.

Very truly your ob'd't servant,

ANSON G. HENRY,
Sur. Gen'l, W. T.

Hon. J. M. Edmunds, Commissioner Gen'l Land Office, Washington, D. C.

In the matter of the contest of claims to land at and near the city of Vancouver, in the Territory of Washington, before the surveyor general of the Territory of Washington, pursuant to instructions of the General Land Office of the 29th of September, 1859, and December 19th, 1859.

The land or tracts of land now in controversy are situate in township 2 north, range 1 east, of the Willamette meridian, covering the site of the present city of Vancouver, in said Territory, and embraced within a large tract formerly claimed by the Hudson Bay Company under the 3rd article of the treaty of June 15th, 1846, between the United States and Great Britain, by which "the possessory rights of the Hudson Bay Company and of all British subjects who may be already in the occupation of said land or other property lawfully acquired within said Territory shall be respected."

339 Until the 29th day of September, 1859, the surveyor general of this Territory, as also of Oregon, had been instructed by the Commissioner of the General Land Office not to survey within the limits claimed by the Hudson's Bay Company, but at that date the said Commissioner thus instructed the surveyor general of Washington Territory (viz):

"It is claimed on the part of the mission (that is, the Roman Catholic Mission of St. James) that these possessory rights were now extinct by the expiration of the charter on the 30th of May last of the Hudson Bay Company, and in support of this covenant reference is made to the report of the select committee on the Hudson Bay Company from the Commons to the Lords in the year 1857 and dispatches of the 16th July and 14th August, 1858, from the Britislr minister, Sir Edward B. Lytton, to Governor Douglas, of British Columbia."

"The report distinctly shows the possessory rights *was* merely a licence to the company to trade; did not convey title to the soil;

and one of the dispatches of 16th of July, 1858, explicitly declares that 'the legal connection of the Hudson Bay Company with Vancouver's island will shortly be served by the resumption of the grant of the soil,' and adds 'that the legal rights on the continent opposite terminate in May, 1859.'"

"The possessory privileges thus shown to be extinct, the title of the United States is disincumbered and becomes absolute in the premises, and consequently they are no longer even impedements to the survey of the land formerly covered thereby."

340 "You will, therefore, proceed to extend the lines of the public survey over the tract of country in question where the aforesaid possessory privilege- have become extinct; will make regular returns of surveys and transmit approved township plats thereof, laying off the mission on the principle laid down in the 6th section of the act of Congress approved 27th of September, 1850 (U. S. Statutes, vol. 9, page 498), and appropriately representing it on the map of the township in which the same may be situated, and will of course properly designate on the office plats the tracts reserved by the United States for military or other purposes."

On the 19th of December, 1859, Honorable I. I. Stevens, Delegate in Congress from this Territory, addressed a communication to the Commissioner of the General Land Office protesting against a confirmation to the St. James mission of the tract of 640 acres claimed by them and asking that the claims of the U. S. military reserve at Fort Vancouver, the town of Vancouver, and of Mrs. Esther Short and the heirs-at-law of Amos M. Short, a donation claimant, all of whom claimed to have rights in the tract claimed by said mission, might be passed upon.

On the receipt of the letter of the Hon. I. I. Stevens, on the 19th of December, 1859, the Commissioner of the General Land Office addressed my predecessor, from which letter the following is an extract (viz):

"I now enclose herewith a copy of a letter of this date from the Honorable Isaac I. Stevens showing that, in addition to (1st)

341 the Catholic mission claim and (2nd) the United States military reservation tract, there are other claims (viz.)—(3rd) the Vancouver town-site tract (see act of 23rd of May, 1844, U. S. Statutes at Large, vol. 5, page 657, chap. 17) and (4th) the donation claim of Mrs. Short." "The purpose of this is to call upon you to make a special report in regard to the several claims in question, the basis and proper extent of the same, giving reference to the date of the origin of these claims and the extent which should be lawfully awarded to each case, according to the evidence before you, and if your files do not furnish complete data in each case you will call upon the parties representing the mission town site and Short's claim and the military authorities for all the information they have bearing upon the several claims, the extent, priority, etc., and will afford them opportunity of being heard."

"When the record is made complete you will make your report, showing your decision upon the merits and extent of each of said claims, with an illustrative map."

After due notice to the respective claimants my predecessor, the Hon. James Tilton, proceeded to Vancouver, and on the 23rd day of April, 1860, afforded an opportunity to file all documents, furnish testimony, and make out their respective claims; in addition to which arguments of counsel were made, and each claimant, by his or their attorney, filed said argument as a part of the record in this case. My predecessor did not make a report, and it becomes my duty to pass upon these claims from the very voluminous records, depositions, and arguments submitted in the progress of the cause.

From the documents on file it appears that the Rev. A. M.
342 A. Blanchet, bishop of Nesqually, within whose diocese the tract claimed by the Mission of St. James is located, claims for said mission six hundred and forty acres of land under the second proviso of section 1 of the act of Congress approved August 14th, 1848, entitled "An act establishing the territorial government of Oregon," which proviso is in the following language:

"That the title to land, not exceeding six hundred and forty acres, now occupied as missionary stations among the Indian tribes in said Territory, together with the improvements thereon, be confirmed and established in the various religious societies to which said missionary stations respectively belong."

The military reserve rests its claim on the following facts: In May, 1849, at the request and by consent of Peter Skeen Ogden, chief factor of the Hudson Bay Company, in charge of the interests of said company in Oregon and resident of their post of Vancouver, Major J. S. Hathaway, U. S. Army, established a military post and depot at Fort Vancouver, taking possession of all lands not enclosed by said company, and subject always to such rights as the said company may be decided to have under the said 3rd article of the treaty. Col. Loring, of the U. S. Rifles, U. S. A., succeeded Major Hathaway, and on the 31st day of October, 1850, by order of War Department, through Gen. P. F. Smith, declared a reserve of 4 miles square, but the act of February 14th, 1853, limiting military reserves to 640 acres each, by order of the War Department of October 29th, 1853, Col. Bonneville, then in command at Fort Vancouver, had the said reserve reduced to its present limits and as now claimed.

343 The claim of the town site of said town of Vancouver under the provisions of the act of Congress of May 23rd, 1844, is based upon an order of the probate judge of said county, made July 3rd, 1850, locating a quarter section as follows: Commencing at a Balm of Gilead tree on the north bank of the Columbia river, marked "A. M. S.," thence along the east line of Amos M. Short's claim one hundred and sixty rods; thence due east one hundred and sixty rods; thence due south to the Columbia river; thence along the bank of said river to the place of beginning, "excepting therewith the enclosures and improvements of the Hudson's Bay Company."

The above tract was surveyed and subdivided into blocks and lots and the plats thereof recorded, and there is some evidence that some lots were sold under said survey.

Mrs. Esther Short, the widow of Amos M. Short, deceased, and the heirs-at-law claim 640 acres in accordance with their notification. In support of their claim Amos M. Short appears to have recorded his claim at Oregon City, in 1846, under the laws of the provisional government of Oregon. Esther Short, widow as aforesaid, filed a notification on the 4th day of October, 1853, dated August 26th, 1853, under the act of Congress approved on the 14th day of February, 1853, amendatory of the act of 27th of September, 1850. The notification and accompanying proof establishes the ar-ival of Amos M. Short in Oregon in the latter part of December, 1845, and a residence upon the claim from the 8th day of March, 1848, to the date of his death, January 19th, 1853. This is the showing made by the parties themselves, but there is evidence that said Amos M.
344 Short was actually on the claim in 1846 and was driven off by the Hudson's Bay Company in 1847. He built a house thereon, cleared and cultivated a number of acres, and was forcibly expelled in the latter part of that year by the servants of the Hudson's Bay Company—his family put in a boat and sent down the Columbia river. We are, therefore, inclined to give the widow and heirs the benefit of his persistent attempt to cultivate and become owner of the tract of land claimed.

The city of Vancouver asserts no pretensions to any portions of the tract claimed by Short's widow and heirs. The limits of the present military reserve fall entirely outside.

To the claim of the Short's heirs there is but one contestant—the Catholic mission.

This brings us to an examination of the claim of the Roman Catholic Mission of St. James.

The points suggested by the counsel to be considered in passing upon the case are:

I. Was there a Roman Catholic missionary station at Vancouver; when was it established, and what are the acts by which the claimants support their claim to be the Mission of St. James?

II. Was the mission an appendage or dependency of the Hudson's Bay Company, its members or priests chaplains in the service of the company, brought there at the instance of that company, and did such establishment cease and terminate with the extinction of the rights of that company, or were the priests on duty at Vancouver missionaries, independent of said company?

III. Was the Mission of the St. James a missionary station
345 among the Indians tribes in Oregon at or before the passage of the organic act of said Oregon Territory passed August 14th, 1848, within the spirit, intent, and meaning of the second proviso of the 1st section of said act?

1st. The testimony produced on the part of the mission shows that on the 6th of June, 1835, the Roman Catholic bishop of Red Juliopolis (Red river), having received an application from certain settlers (called in his letter free families) on the Willamette river to send missionaries of that faith to them, answered Dr. John McLaughlin, of the Hudson's Bay Company, and the petitions, regretting that missionaries could not be spared from Red river, but

stating that he would soon be able to supply their wants, expressing his desire to be "to procure for this free people and the Indians afterwards the means of knowing God." The settlers on the Willamett-, not the Hudson's Bay Company, applied for the missionaries.

On the 17th day of April, 1836, the Catholic bishop of Quebec, in whose diocese the country west of the Rocky mountains was embraced, appointed Francis N. Blanchett and Modeste Demers, priests, missionaries for that portion of his diocese of Quebec which is situated between the Pacific ocean and the Rocky mountains, and in directing those gentlemen to proceed to the field of their labors the first instruction is "that they must consider the first object of their mission to draw from barbarity and the disorders which follow from it the Indian nations spread in that country."

Among the instructions we find the following:

10th. "As to the place where they will fix their principal
346 residence, it will be on the River Cowlitz, which empties into the River Columbia, on the north side of the last river. On their arrival at Fort Vancouver they will present themselves to the person who there represents the honorable Hudson Bay Company, and they will take his advice as to the precise situation of that establishment."

11th. "They are particularly recommended to have all possible regards for the members and employees of that company, with whom it is very important for the holy work with which they are charged to be constantly in good intelligence."

It will be seen by the former instructions that "so far as the station on the north bank of the Columbia river" is concerned the said priests were to be advised by the person in charge at Fort Vancouver.

On the 24th of November, 1838, Messrs. Blanchett and Demers arrived at Vancouver, and the evidence establishes the fact that during that year and the next a number of stations were established in Oregon and a number of tribes visited at various places.

Mr. Blanchet at that time acted as vicar general in Oregon to the bishop of Quebec, and it appears that he or Mr. Demers, with the exception of temporary absences in visiting various portions of Oregon and New Caledonia, was on duty at Vancouver imparting instructions to the Indian wives of the whites residing there as also such Indians as visited there. It is proven that over four hundred Indians were baptized at Vancouver alone. From this period
347 to 1842 we find no addition to the number of these priests. This year Sir George Simpson made a favorable report, and Messrs. Bolduc and Langlois arrived.

In July, 1844, Mr. Blanchett was succeeded by Mr. Demers. Father Nobile followed him from 19th of September, 1844, to June, 1845; Father Devos to May, 1847. Fathers Joset and Demers had charge after Devos until November, 1847, when Father Delevand was appointed and continued until 1850, when succeeded by Rev. J. B. A. Brouillet, who is now in charge. The services and instructions were conducted in an old store within the stockade of the Hudson Bay Company fort, which room was exclusively used for such pur-

poses. Before 1844 a piece of ground outside of the pickets was obtained by Mr. Blanchet (not purchased, for the company refused to sell), which piece of land includes the present, site for the purpose of erecting thereon a church. The ground had been designated and marked out by Governor Douglas (then in charge), which piece of land the mission had permission to fence, but did not then do it for want of means.

In 1839 or 1840 Mr. Blanchet had purchased an old building from one of the company's servants, which was used as a school for Indian children. On the 31st day of May, 1846, Rev. Mr. Devos, then in charge of the station, "under the auspices of the Holy Name of Mary and the patronage of the Apostle St. James the Greater," dedicated the church edifice built by Gov. James Douglas, and who signed as a witness to the dedication.

From that time till now the church has been continuously used; has been greatly extended and improved. Within the enclosures are several buildings now used for religious purposes, learning, and other charities.

348 Such are the facts establishing the foundation of the mission when it attained the name of the "Mission of St. James," and about any or all of which there is really no dispute.

This leads us to the second inquiry, whether such mission was an appendage or dependency of the Hudson Bay Company? Were its priests missionaries or were they chaplains in the service of the Hudson Bay Company?

The testimony hereinbefore referred to as to the intentions and acts which called into being the missionary expedition of Messrs. Blanchet and Demers in 1838 clearly demonstrates that it was not occasioned by any act of the Hudson Bay Company. The 10th and 11th instructions of the bishop of Quebec and the letter of the bishop of Juliopolis show conclusively that the company had no hand whatever in the establishment; and while it would have been exceedingly easy to have established affirmatively that these men were chaplains, no positive testimony is adduced. It is not necessary to establish a negative and prove they were not chaplains, but there is abundance of positive proof they were missionaries, so constituted themselves, as shown by their own acts, and their superiors, and so regarded by the Hudson's Bay Company.

Had the Hudson's Bay Company invited them as chaplains the 12th and 13th instructions of the bishop of Quebec would never have been given. They are as follows: 12th. "As they (Messrs. Blanchet and Demers) cannot rely entirely upon the resources from the Association for "Propogation of Faith," established a year ago in this diocese, to provide for their sustenance and the construction

349 of the chapels and houses which they will establish in various places of their mission, they will induce the white inhabitants and the natives of the country to contribute for these objects as much as their means will allow them." 13th. "They will not fail to give us every year information as to what may interest, delay, or favor the progress of their mission. They will be careful that these details be arranged in such a way that they may be published

as well for the edification as for the encouragement of the faithful, who, as members of the Association for the Propogation of the Faith, contribute by ther alms to the establishment and support of that new mission."

Sir George Simpson, in charge of the affairs of that company on the Continent on the 4th of June, 1839, addresses the Rev. Mr. Blanchet, Roman Catholic mission, "Columbia," and then goes on to hope that everything will be done by the company "to facilitate and promote your (Mr. B.'s) endeavors in the cause of morality and religion among the servants, freemen, and Indians."

In this letter and one of the same date to the bishop of Juliopolis, Sir George, however, declares for the present to accede to the request of Mr. Blanchet for permission and aid to increase the number of missionaries. This correspondence indicates an entire independence between the mission or missionaries and the Hudson Bay Company.

Year after year, from 1838 down to 1845, inclusive, we find the Hudson Bay Company keeping an account with them for goods and supplies and invariably terming them as the "Catholic mission."

350 In 1842, on the 25th November, Dr. John McLaughlin, then in charge of the Hudson's Bay Company interests, writes to Rev. F. N. Blanchet as follows: "I am instructed to place one hundred pounds sterling to the credit of your mission as an acknowledgment of the eminent services you and your pious colleague are rendering to the people of this part of the country."

Several very respectable witnesses have given their impressions that the priests at Vancouver were housed, fed, and paid as chaplains in the company's service; but there is no positive testimony by a single witness that any one of the priests ever received a dollar as chaplain, but there is positive proof that the company recognized the existence of a mission and made the above-named contribution in aid of the mission.

All doubts in this matter of chaplaincy and dependency of the priests of the Oregon Catholic mission are fully set at rest by the testimony of Sir George Simpson in March, 1857, before the select committee of the English Parliament (see report on Hudson's Bay Company, 1857, British Parliament), and especially the answer to interrogatory 1,731 in said report, page 91: "Question. Is it entirely optional with them whether they keep a school or not? Answer by Sir George Simpson. It is optional as far as we are concerned. We do not insist on their keeping schools. They are under the control of the bishop of the territory or the society to which they belong. We exercise no control over them."

The mission was further supported by the Society for the Propogation of the Faith in Quebec, by a like society in Paris, by
351 subscriptions of the servants of the Hudson's Bay Company, by the products of their farms at St. Paul, in Oregon, and the Cowlitz, and by donations.

We are therefore forced to the conclusion that these men were missionaries. The evidence is irresistible that their chief station

and headquarters were at Vancouver, called, since the dedication of the chapel, the "Mission of St. James."

It is very pertinent here to inquire what was the intention of Congress in making this donation? It seems that the Government recognized with favor that body of men who had plunged into the wilderness to carry tidings of salvation to the heathen, to mol-ify their native dispositions by christianizing them, and thus prepare the way for successful and at the same time peaceable settlement of the country by the white race. May we not suppose, with reason, too, that this donation was intended by the Government to those men ministering to the spiritual wants of the pioneers to civilization and settlement of our national domain, affording an incentive hereafter to religious societies to send forth their missionaries to new fields, and as they helped to settle the territory of the Union their labors should be recognized and encouraged by these grants of land?

While it is not claimed that the act of March 2nd, 1853, could enlarge the rights of parties who had vested claims by virtue of the Oregon organic act, yet we refer to it as supporting this view.

It opens the door still wider and grants 640 acres of land now
352 occupied or that may have been occupied as missionary stations prior to the passage of the Oregon act, recognizing a claim to 640 acres in any religious society who may have established a missionary station among the Indian tribes of that part of Oregon by the said act erected into and constituting Washington Territory.

That the Mission of St. James was a missionary station, and that the priests administering were missionaries and not chaplains, the evidence seems irresistible to establish.

III. But a question is represented, to which our attention is called, was the Mission of St. James, a missionary station among the Indian tribes in said Oregon Territory, occupied at the time of the passage of the act—that is, on the 14th of August, 1848?

That it was occupied the very day the law passed as a church station the evidence is conclusive, for on that very day the marriage of Judge Petrain, now probate judge of Clarke county (Vancouver), was solemnized in the chapel of St. James mission. The United States have regarded all the territory west of the Rocky mountains as belonging to Indian tribes. It has been treated with those native tribes for the extinguishment of their title and the purchase of their lands. The courts have ever treated it as Indian country for the punishment of the violation of the Indian intercourse law, that law being applicable to the country west of the Rocky mountains by force of the act of Congress of June 5th, 1850.

There is evidence that Vancouver was in the country claimed
by the Klickitat tribe; that for a number of years large
353 camps of the Indians were in the vicinity until they had been thinned out by the small-pox. Judge Petrain, of Vancouver, swears that at one time from 1,500 to 2,000 were present at or near Vancouver, and his testimony is cor-oborated by the evidence of Blanchet, Barclay, and McKinley that Indians constantly visited

the priests to receive instruction; that the priests were in their camps; that they were preached to in "jargon" and in the Indian tongue; that hundreds of them were baptized and received other *rights* of religion. There is abundance of proof that, so far as this station is to be regarded, missionary labor among the Indians was their chief occupation and prefer-ed duty. Indeed this is in keeping with the spirit and intent of the instructions to the missionaries, who formed and so long presided in person over this mission.

In the letter of the bishop of Juliopolis on the 8th of June, 1835, addressed to "all the families established on the Willamette river, and other Catholic persons beyond the Rocky mountains," answering their petitions for missionaries of July 3rd, 1834, and February 23rd, 1835, and regretting his inability to comply, but assuring them they will secure help soon, he thus eloquently writes: "My intention is not only to procure to you and your children the knowledge of God, but also the numerous Indian tribes among which you live. I exhort you meanwhile to deserve by a good behaviour that God may bless my undertaking.

Raise your children the best you can. Teach them what you know of religion, but remember, my dear brethren, that the proper means of procuring that your wives and children take
354 some notion of God and the religion you profess is to give them a good example by a life moderate and exempt of the great disorders which exist among many of the Christians beyond the mountains. What idea do you give of God and the holy religion you profess to the Indians, especially who see you, who are calling yourselves the servants of that great God, disorders which equal and, perhaps, surpass their own?" The letter goes on showing that the conversion of the Indian was a leading, if not the great, idea of establishing the mission.

On the 17th of April, 1838, as before seen, the Roman Catholic bishop of Quebec, in whose diocese was included the country west of the Rocky mountains, and under whose jurisdiction were the Rev. Messrs. Blanchet and Demers, sent forth these gentlemen as missionaries to "that portion of the diocese of Quebec which is situated west of the Rocky mountains."

The bishop instructs these missionaries, "They must consider as the first object of their mission to draw from barbarity and the disorders which follow from it the Indian nations spread in that country." They were from the first moment of their arrival to apply themselves to the study of the Indian languages, to reduce them to regular principals, so as to be able if possible to publish a grammar, etc., in said languages.

Numerous other instructions were given, but the whole letter establishes, beyond a doubt, that the church and bishop who sent forth the missionaries who established their chief station at Vancouver, long anterior to the passage of the act of Congress,
355 were actuated in the main by the idea of converting to Christianity and the blessings of civilization the Indian tribes then inhabiting Oregon.

The testimony adduced on the trial in no way diminishes the

effect of these documents, but throughout forces the conclusion that if ever there was a mission established for the purpose of laboring with and among the Indian tribes, possessing all the requirements to constitute such an institution, that, in my judgment, is the Mission of St. James.

From the time its formation was conceived at St. Boniface and Quebec, during long years of zeal and labors*u* and uninterrupted presence of one or other of the priests connected with the mission at Vancouver, laboring with and instructin*e* the aborigines, either in the humble storehouse or in the little edifice dedicated in 1846 to the patron saint of the mission, down to the successful charities now an institution of learning and benevolence creditable to the Roman Catholic church and to the Territory, from first to last it retains its missionary character and unmistakably bears the impress and illustrates the pious designs of the prelates who established the Catholic mission of Oregon.

We have now discussed the status of the Mission of St. James, its missionary character, its independence of the Hudson's Bay Company, its claim to be regarded as a missionary station among the Indian tribes of Oregon.

Other questions of even a more delicate and intricate character now present themselves. We *ah*ve arrived at the conclusion that
the missionaries on duty at Vancouver were separate from
356 and independent of the Hudson's Bay Company; that their
rights were not concluded by the extinction of the possessory rights of the Hudson's Bay Company. True they stopped at Vancouver and made it their headquarters by consent of that company; true they occupied buildings erected by the company inside their enclosures; true that the company entertained them at their table and annually contributed a stated sum towards the support of the Oregon mission; true that the chief factor, Douglas, was the donor of the little church edifice which, after its dedication, confers name on the mission.

All these acts of benevolence on the part of the company are dwelt upon as so many proofs that because that company from its magnificent wealth bestowed these gifts and did these kindnesses that the mission, as a matter of fact, could not be supposed to exist. Does the fact that our Government grants to each religious society a tract of land wherever they may locate stations on the public domain deprive a mission of its character or defeat its occupancy of the land and improvements before the courts, because the benefits of such stations is deemed a sufficient consideration for these grants? Against the Hudson's Bay Company it might have been in bad taste and basely ungrateful for this mission to claim adversely; but to assert a claim to a grant by the United States made because the parties had protected what the Government deemed to be its interest is neither improper nor does it taint the character of the claimants to assert it.

The letter of the Commissioner instructing this investigation disposes of the question of the claims of the Hudson's Bay Company.

357 We are therefore to inquire whether the Mission of St. James was occupied as a missionary station in Oregon at the passage of the organic act of Oregon on the 14th day of August, 1848. Whatever claim the mission that day possessed vested in the religious society to which it belonged, and was by the passage of the act in question confirmed and established to them and secured in perpetuity the title to the land then occupied as a missionary station, "not to exceed 640 acres, together with the improvements." The land on which the church was erected and the church and vestry were free gifts and donations to the mission. The donor, Governor Douglas, witnessed the dedication and consented to their appropriation by and for the use and benefit of the church. It matters not who built the station; how they came by it. Were it an objection that churches were built by others than the priests who minister at the altars but few religious bodies would own the buildings which they used for worship.

The land could not be given or sold by the company, for they possessed no fee, but a mere license to trade among the Indian tribes west of the Rocky mountains. There is evidence to show that land was marked out and designated for church purposes, and that it was so understood by all, though till the date in question the evidence shows that the mission was largely indebted to the Hudson's Bay Company and were stopped in their purchases on credit, much less were they able to build improvements. The Government, who made a grant of 640 acres of land to a society for having estab-
358 lished a missionary station among the Indian tribes, has no privilege to inquire who made the improvements, who erected the buildings. The condition precedent to the grant is, did that society or station perform what are known as missionary labors to the Indians in the vicinity? Nor can the Government withhold its grant once made because its title was defective or clouded at the time it made the grant in question.

In an analogous case arising under an act of Congress passed August 8th, 1856, granting lands on Fox river to the State of Wisconsin, a portion of the land so granted *were* included in the Stockbridge Indian reserve, and the title of the tribe for whom it had been set apart was not extinguished. The question arose whether upon the treaty with the Indians the State of Wisconsin obtained a right to the lands granted her within the reserve, or whether the grant was void for want of title in the United States at the time it was made.

Attorney General Black, on the 3rd of June, 1869, gives his opinion in the following words:

"I do not think this a problem of difficult solution if we apply to it the principles of law and equity which govern analogous cases. When one party grants lands in which he has no estate a title subsequently acquired by him enures, not to his own benefit, but to that of his grantee; besides the United States had title at the time of the grant and the right of the Indians was no more than a usufruct. Nothing, it seems to me, can be clearer than this proposition, namely, that when the United States by a legislative grant

give land to a State, a corporation, or an individual for pub-
359 lic purposes all the title which the United States had at the time of the grant or may afterwards acquire vests in the grantee, unless the grantee has done something in the meantime which estops him from claiming. (See Lester's Land Laws and Decisions, page 505.)

Apply this doctrine in the present case. The particular grant now in controversy was upon lands claimed by or in the occupancy of the Hudson's Bay Company. This land happened to fall within lands covered by their possessory rights at or near Vancouver. As soon as the land was unembarrassed of such claim the title of the United States to said soil was perfect. Besides the United States had the title to the fee; at the time the grant was made the right of the company was to all intents and purposes a mere "usufruct," a privilege to enjoy their license, granted to them while the Territory was in joint occupancy by the United States and Great Britain and continuing till May, 1859, by the terms of the license, which, by the 3rd article of the treaty, the United States had solemnly bound itself to respect.

Hence, if this doctrine be true, the claim of the Hudson's Bay Company or their tenants, the military post, does not relieve the United States from making good its grant made on the 14th day of August, 1848. No evidence, certainly, is presented in this trial showing that the mission failed to assert their claim. The complaint of all who are opposed to its recognition appears to be that they were too grasping, too anxious to secure the confirmation of their grant.

Another question is also presented by counsel as to the construc-
tion of the language of the grant—whether by it 640 — are
360 really granted and conveyed or merely the amount occupied by the missionary improvements, the language being "not to exceed 640 acres."

In giving the law or this language a construction we incline to the belief that Congress intended to declare that religious societies, who had in good faith sent missionaries into Oregon to establish stations among the Indian tribes for their benefit, are entitled to aid and encouragement from the Government. The missionary labor among the Indians was the consideration, the condition precedent. The words are plain, "the title to the land not exceeding 640 acres then occupied as missionary stations among the Indian tribes in said Territory be confirmed and established."

The question as to the amount of the grant is stripped of some of its difficulties by the fact that the Commissioner of the General Land Office has already decided what construction is to be given to the language "not exceeding 640 acres." Under date of August 18th, 1853, the department instructed Surveyor General Preston, in whose district this station was located, as follows: After reciting the proviso to the 1st section of the Oregon organic act he says, "Such provisions is understood to grant 640 acres to each separate and distinct missionary station referred to, and a like provision is

made in the act to establish the territorial government of Washington Territory."

"In order to comply with the terms of the grant under circumstances where the land now occupied, together with the improvements thereon, cannot be brought into legal subdivisions
361 without doing manifest injustice to the missionary stations, it will become necessary to cause to be made a special survey of a square mile which shall include the land occupied, with buildings and improvements in the center as nearly as may be," clearly showing that the grant is 640 acres on the consideration of having found missionary stations among the Indian tribes, and not, as contended for by counsel, circumscribing the grant to the land actually used or covered by the buildings and improvements.

This grant was not intended to induce settlement, but, in consideration of service already rendered by the grantee, in September, 1850, Congress grants to actual settlers who will occupy, cultivate, and reside in Oregon; but in this act it acknowledges a just and equitable claim for the service performed by the missionaries. The Supreme Court in the case of Fremont *vs.* The United States (of Howard, page 558), say: "Although this cannot be regarded as a money consideration, making the transaction a purchase from the Government of a just and equitable claim."

In that case, as in this, it was contended that the discription was so vague and uncertain—nothing passed by the grant—and that Alvorado, to whom the grant was made, had no vested interest until the land was surveyed. The court remarks that "as between him and the Government he had a vested interest in the quantity of the land mentioned in the grant; the right to so much land to be laid off by official authority in the territory discribed passed from the Government to him by the execution of the instrument granting it."

362 The same principle was held in the case of Rutherford *vs.* Heirs of General Nathaniel Green (2nd Wheaton, 196), which was a grant by North Carolina of 25,000 acres out of the land reserved for its officers and soldiers.

The Supreme Court remark that in both of these cases—Freemont *vs.* The United States and Rutherford *vs.* Green's Heirs—that it recognizes as a general principle of justice and municipal law that such a grant vests in the grantee a present and immediate interest." In the language of the court, "The general gift becomes a particular gift when the survey is made."

A refference to the whole opinion delivered in that case becomes valuable; a portion of it is devoted to the consideration of whether Alvorado, by certain omissions, forfeited the grant. In the case under consideration much weight is attached to the omission of the mission to fix their lines by survey. The very instructions under which this investigation has been pursued answer all these objections. Till September, 1859, by positive instructions from the General Land Office, the surveys could not be extended over the lands claimed by the Hudson's Bay Company as covered by their possessory rights secured to them under the treaty of 1846.

Again, by the positive injunction of the General Land Office of date August 18th, 1853, the mission was precluded from asserting its claim. The following is the language of the Commissioner in his letter of that date to the surveyor general of Oregon:

"In case any mission stations should be found to fall within
363 the unadjusted limits claimed by the Hudson's Bay or Puget Sound Agricultural Companies you will receive evidence of the claim and all the facts respecting the same, but be careful that no special survey or definite action is had thereon until the receipt of special instructions from the department." No such special instructions came until the letter of the Commissioner to my predecessor, bearing date the 29th day of September, 1859, in which this office is instructed to extend the public surveys over the tracts claimed by the Hudson's Bay Company, and to lay off the mission claim in accordance with section 6 of the act of Congress approved September 29th, 1850, otherwise called the donation law.

The delay, therefore, of the mission, under the circumstances apparent, can work no injury to their claim nor for future of the grant.

We approach the next feature of this case with extreme diffidence and confess the array of difficulties here presented by the occupancy of a large portion of this land by the military post of Vancouver.

It has already been intimated in this report that the grant to the mission took effect and was in full force from August 14th, 1848, as between the mission and the United States, subject only to the lien and encumbrance which by treaty stipulation had been imposed upon the United States by the 3rd article of the treaty of limits between the United States and Great Britain.

In May, 1849, and after the grant to the mission, by invitation of the officers in charge of the Hudson's Bay Company post at
364 Fort Vancouver, Major Hathaway, of U. S. A., took post and stipulated to pay rent, and in the contract agreed to hold possession and use said post under and subject to all the rights the Hudson's Bay Company possessed; they were in fact tenants of the said company, and by force of circumstances the lease expired with the possessory right to the possession of said company—that is to say, at the expiration of the license of said company to trade, which occurred May 30th, 1859.

If our doctrine be correct, that on the 14th day of August, 1848, the United States granted, confirmed, and established unto the religious society to which the Mission of St. James belonged the tract in question was not within the operation of the act of 27th of September, 1850, nor of the act of February 14th, 1853.

All the proceedings in regard to the establishment of this reservation may be briefly stated as follows:

In May, 1849, Maj. Hathaway, U. S. Army, leased of the Hudson's Bay Company sufficient buildings for garrison, quarters, etc., with privilege of adjacent unoccupied lands.

In May, 1850, by order of General P. F. Smith, under directions of War Department, Col. W. W. Loring, U. S. A., ordered a reserve of four miles square.

Under the act of February 14th, 1853, limiting the quantity of res-

ervation for forts to 640 acres, the War Department, on 29th of October, 1853, directed the restriction of the reserve to 640 acres, its present limits, which limits were declared by Col. Bonnerville, U. S. A., then in command at Fort Vancouver, on December 8th, 1853.

365 On 17th January, 1854, a board of officers reported on the value of the improvements within the lines, the mission asserting no claim.

We are aware that large improvements have been made on this military reservation, a vast expenditure of public money has been incurred, and such fact is urged as a reason why vested rights of others should be interfered with.

The improvements of the Hudson's Bay Company were not such improvements as were included in the proviso to the 9th section of the act of Congress approved February 14th, 1853. Under the treaty of 1846 the United States could not force the Hudson's Bay Company to take the price appraised by the board of officers, nor could they, except on the free volition of the company, expel them from their trading post established under the treaty of joint occupancy till their possessory rights had ceased and determined; hence the appraisement then made was a mere ceremonial report, made in conformity to the instructions of the Secretary of War. The fact that such law could not be used except by the consent of the company takes it out of the purview of the act under which it is claimed this reservation was made, for the company could in no event be considered as a settler making an improvement previous to reservation.

Nor is the right of the mission surrendered or lost by such form or ceremony. If they acquired anything by the grant of August 14th, 1848, they obtained the right to the fee, and of that they

366 could not be diverted by a mere appraisement and pay for the improvements. This doctrine is fully sustained in the case of the Dalles Methodist mission; a fort or military reserve having been established, including a portion of a tract of 640 acres, which would include the improvements of that station, the Government gave them $20,000 for the portion covered by the military reservation. (Act of Congress 1860, June 16th, CXLIV of the Pamphlet Laws of Session '60 and '61.)

By reference to the Dalles Mission case it will be seen there were some circumstances showing that the mission was not absolutely in occupancy on the 14th of August, 1848, in consequence of the hostilities of the Indians, it being shortly after the massacre of the late Dr. Whitman. Besides, a transfer had been made in 1847 from the Methodist mission to the American board. The station was re-transfer-ed to the Methodist mission in February, 1849. Broken as was this possession and occupancy, the grant was considered absolute and a vested interest in the mission, and the land intruded upon by the military authorities at the Dalles cost the Government $20,000.

We are compelled to decide, therefore, from the evidence before us, that the military reserve was made upon land previously granted

to the Mission of St. James, and that so far as it lays within the lines of the mission must be held subject to the *rp*oprietary rights of the mission, granted and confirmed to said mission by the act of August 14th, 1848.

So far as the claim of the city of Vancouver is concerned, there is no very great difficulty.

This claim is based upon the first section of the act of
367 Congress of May 23rd, 1844, entitled "An act for the relief of citizens of towns upon lands of the United States under certain circumstances," the first section of which, under which the claim is sought to be supported, being as follows:

"Whenever any portion of the surveyed public lands has been or shall be settled upon and occupied as a town site, and therefore not subject to entry under the existing pre-emption laws, it shall be lawful, in case such town or place shall be incorporated, for the judge of the county court for the county in which said town may be situated to enter at the proper land office and at the minimum price the lands settled and occupied in trust for the several use and benefit of the occupants thereof according to their several interests." (*Vide* United States Statutes at Large, vol. V, page 657, chap. 17.)

On the examination of the record and evidence in this case we find that the county authorities of Clarke county on the 3rd day of July, 1850, proceeded to locate a quarter section of land for the county seat of Clarke county, not under the law above quoted, but under the provisions of the act of Congress approved May 26th, 1824, entitled "An act granting to the counties or parishes of each State and Territory of the United States in which the public lands are situated the right of pre-emption to quarter sections of land for seats of justice within the same." (U. S. Statutes at Large, vol. IV, p. 50, chap. CLXIX.)

This law makes a grant to the several counties in the States
368 and Territories, where there are public lands, at the minimum price for which public lands of the United States are sold, the right of pre-emption to one-quarter section of land respectively for the establishment of a seat of justice thereon, provided the proceeds of sales of said quarter sections shall be appropriated for the purpose of erecting public buildings of the said counties, and provided further that the seat of justice for said counties respectively shall be fixed previously to the sale of the adjoining lands within the county or parish for which the same is located.

The county of Clarke appears to have abandoned their claim to the town of Vancouver under this law, and the city appear to renew a claim under the act of May 23rd, 1844.

We think the county lose their status as claimants by the legislation of the Territory of Washington at is first session locating the county seat of Clarke county upon the land claimed by Mrs. Esther Short. (See laws of W. T., session 1854, p. 475), which reads as follows:

"That the county seat of Clarke county be, and the same is hereby, located and established at Columbia City, on the eastern portion of Mrs. Esther Short's land claim." But had not the county author-

ities abandoned their location and claim the law was not applicable at the time of said location. The land in Oregon was not public land subject to pre-emption. The specific lands in question were encumbered by a claim against the United States under the treaty of 1846. We have no evidence of the city claiming by any subsequent act of the county authorities of Clarke or the corporate authorities of the town or city of Vancouver, although by the in-
369 structions of the Commissioner of the General Land Office and the argument of counsel we find the act of May, 1844, hereinbefore quoted, relied upon to support this claim of the city to the triangular gore or strip of land lying between the alleged or claimed east boundary of the Short donation and the west line of the U. S. military reserve.

Admitting, then, for the purposes of the investigation, that the authorities of Clarke county had taken said claim in trust for the settlers and occupants under the act of 1844 instead of the county-seat law of 1824, we enquire, Does a single feature of the law of 1844 render it applicable to the case, or is a solitary requirement of the section of that law before quoted been conformed to by the county authorities of Clarke or the corporate authorities of Vancouver city?

Were the lands at or near Vancouver surveyed or were they public lands within the meaning of that act? Certainly not. As to the time of the order of the county court of Clarke county, filed in this case as the evidence of a town site claimed as early as 1850, where was the office for the entry of land at the minimum price? There was at the time no register or receiver and no law conferred upon the surveyor general of Oregon a right to receive pay for land or issue a certificate. Indeed, until the passage of the act of July 17th, 1854, the pre-emption law and the "act for the relief of citizens of towns upon lands of the United States under certain circumstances," which is the act under which the claim is now supported, was extended over or applicable to either Oregon or Washington. This doctrine was held by the supreme court of
370 Oregon in 1853 and '4 (Martin *vs.* T. Vault *et al.*, Oregon Reports, 1853–'4, p. 44).

I am of the opinion that antecedent to the passage of the act of July 17th, 1854, extending the pre-emption law and the law before referred to of May 23rd, 1844, neither county nor town authorities could occupy a town site in either Oregon or Washington under said act of May 23rd, 1844, and certainly there is no evidence or attempt to procure evidence showing that any portion of the town of Vancouver has been occupied since July 17th, 1854, under the provisions of the said town-site law. I can have no hesitancy, therefore, in deciding and reporting that, under the said law or under any other law which I have been able to find, *that* the city of Vancouver has no claim or title to any portion of said land now in controversy.

We now proceed to investigate the claim of the widow and heirs-at-law of Amos M. Short, deceased.

There is abundant testimony of a persistent effort on the part of

Mr. Short during his lifetime to acquire the claim now sought for by the widow and heirs-at-law, which effort commenced as early as 1846–'7. Twice is he forcibly ejected by the servants of the Hudson's Bay Company at their instance; once by the judgment of a court of law at suit of a man named Ermatinger. Once, in defending it from its being wrested from him, he takes the life of the party trespassing upon what he claimed to be his right.

We will not review the contest between him and the company, nor with Ermatinger, nor the several persons who at various times, by purchase or occupation, claim interest in said premises or
371 some part thereof. The widow and heirs, by their notification on file, date their residence and cultivation as commencing March 10th, 1848. Behind this we cannot go, and we presume this is as favorable a showing as they could make.

The act of Congress of August 14th, 1848, establishing the Territorial government of Oregon, in the proviso to its 14th section annuls and renders void any and all titles to lands in Oregon claimed or acquired under the provisional government. On the 27th of September, 1850, the donation law was passed by Congress, the 4th section of which affords Mr. Short the privilege and opportunity of setting up a claim to 640 acres of land, recognizing the possession acquired under the land laws of the provisional government confer-ing the opportunity to make a claim up to 1st of December, 1851. Amos M. Short might, under the law, have availed himself of the benefit of his persistent intention to become possessed of the tract now claimed by his heirs, but he totally neglected to assert that claim, and we find in this controversy the widow and heirs relying upon the act of Congress of Feb. 14th, 1853, which extended the privileges conferred by the 4th section of the act of 27th of September, 1850, until December 1st, 1853. Amos M. Short had failed during his lifetime, which occurred subsequent to December 1st, 1851, to claim as a settler or resident of Oregon antecedent to December 1st, 1850, and had by this neglect lost the benefit of the 4th section of 27th Sept., 1850.

But the law of Feb. 14th, 1853, was passed, and in October of that year the widow in her right and for the heirs-at-law claim- a tract of 640 acres.

372 To the day of Mr. Short's death he had taken no legal steps to acquire a title to any land in Oregon. The act of 27th September, 1850 (donation law of Oregon), was the first act or law recognizing a mode for American settlers to acquire title to or interest in any land in the said Territory. (Lonsdale *et al. vs.* Parish. U. S. Supreme Court, 21 Howard, p. 290.) In the opinion of that case the court quote at length the proviso of the 14th section of the Oregon organic act, which declares "All laws hereafter passed in said Territory making grants of lands shall be, and are hereby, declared to be null and void," and then go- on to say "that Congress passed no law in anywise affecting titles to lands in Oregon Territory till Sept. 27th, 1850, and the bill in this case was filed July 29th, 1850. So that when the litigation commenced neither party to the suit had any title or interest in the land whatever."

Apply this principle to the case under consideration and we conclude that Amos M. Short acquired no tangible interest in land in Oregon until the passage of the act of September 27th, 1850. Until that date he could not obtain any title or interest to lands belonging to the United States. At that date the Government agreed to grant to American settlers and others tracts of land upon certain conditions, one of which was that the claimant should file a notification by or before Dec'r 1st, 1851. This Mr. Short failed entirely to do, and by his own choice and act debarred himself the privilege the Government had so liberally conferred.

After his death, on the 14th February, 1853, another act of Congress was passed, the privileges to the class included in
373 sec. 4 of the donation law were extended. The privilege of making this claim therefore attached by virtue of a law passed subsequent to his death and which of consequence conferred no benefit upon him.

In October, 1853, his widow claims for her heirs-at-law what he might have claimed had he lived. We yield to her and the heirs-at-law all the equities and rights which would have enured to him were he living and in person urging this claim.

The testimony all seems to establish that antecedent to Aug. 14th, 1848, in fact up to the date of Mr. Short's death in January, 1853, that the residence of the family was on the western portion or half of the claim.

These acts of negligence on the part of Short to assert his claim are adverted to because so much stress has been laid upon the fact that the mission were slow to assert their claim. The evidence, however, shows that in May, 1853, the Rev. A. M. A. Blanchet, bishop of Nesqually, caused to be filed the notification of the claim of the St. James mission. In October of the same year, Mrs. Esther Short files the notification of their claim.

After a thorough examination of the matter presented and a diligent investigation of the law and the evidence adduced in this trial, I have conscientiously, may I say somewhat reluctantly, been forced to yield to the conviction that the grant of 640 acres of land made to missionary stations by the organic act of Oregon vests in the mission of St. James the absolute fee and title to a tract embracing their improvements of 640 acres of land; that such tract was not open to settlement under the donation law of Sep. 27th, 1850, extended
374 by the amendatory act of Feb. 14th, 1853; that by the organic acts establishing the Territorial government of Oregon and Washington, respectively, passed August 14th, 1848, and March 2nd, 1853, Congress and the Government designed to donate tracts of 640 acres of land to missions in attestation of their regard for religion and morality and in appreciation of the healthy aids to settlement afforded by the various religious societies who established missions in the wilderness.

By force of which the title to the St. James mission to 640 acres of land absolutely vested in the society to which said mission belonged at the date of the passage of the act of August 14th, 1848.

As between the United States and the Hudson's Bay Company for

the claim of that company by virtue of the respect due to their possessory rights guaranteed by the treaty of 1846, it was a matter of treaty obligation between the United States and Great Britain. Those possessory rights embraced not the soil. By the treaty the sovereignty of the United States to the soil was absolute. The Government by that treaty of limits secured the fee simple and the domain, and by voluntary grant, absolute in terms, donated, confirmed, and established to those religious societies who had missionary stations in Oregon the tract of land upon which such stations were founded. The mission of St. James was one, if there was one in Oregon, and a tract of 640 acres was granted to them; and such tract was neither open to settlement under the donation laws or its amendments, to encrouchments by the military authorities, except in
the usual method known to the law of appropriating private
375 property to public uses, nor to pre-emption or occupation for
town sites, except as tenants of the legitimate donee or grantee. The rights of the United States fully ceased and determined on the 14th of August, 1848. The tract was subject then to the possessory rights of the Hudson's Bay Company, for the treaty said those rights should be respected. Those rights continued by their license till May, 1859, and when that incubus was removed by the extinction of those rights it left the grant to the Mission of St. James, full, ample, and complete, now entitled to enjoy the same in all its parts, with the right to ask for and receive from the United States a deed of confirmation or patent so soon as the lands could be surveyed.

The papers on file show that the mission notification was on file before any claims were asserted to contiguous lands. It is the oldest claim. Its recognition is coevil with the organization of Oregon, and was a positive grant more than two years before any American settler could acquire an interest in or title to unoccupied public lands in Oregon.

The mission had been used since the winter of 1838. It is not my province to comment upon the wisdom or policy of such a law, and it is a matter of regret that private interests may by such decision apparently suffer; but the law making grants to missions is so clear and positive, the evidence so direct and long continuing, bringing the station or mission within the purview of the law, that there is but one duty to perform, to confirm to the mission 640 acres of land in accordance with said grant, as shown in the annexed plat.

All of which is respectfully submitted.

AMOS G. HENRY,
Surveyor Gen'l, W. T.

376 DEPARTMENT OF THE INTERIOR,
GENERAL LAND OFFICE,
WASHINGTON, D. C., *May 9th*, 1872.

U. S. surveyor general, Olympia, W. T.

SIR: For your information and guidance in the matter I herewith enclose a copy of the opinion of the Honorable Walter H. Smith, Assistant Attorney General, of 29th January last, together with a copy of the decision of the Hon. Secretary of the Interior of 11th

March last, in the case of the claim of the Roman Catholic Mission of St. James at Vancouver, W. T.

The Hon. Secretary decides that the claim of the mission shall be reduced from 640 acres, as claimed, to "a small tract of land which had been improved by the erection of a church," and that said tract, "as near as can now be ascertained, together with the improvements thereon, should be set off by the surveyor general as the tract confirmed by the act of 1848 to the religious society to which such mission belongs."

You are hereby instructed to take immediate steps to make a survey of said claim in strict conformity with the decision of the Secretary of the Interior, and when the same shall have been completed forward a plat and copy of the field-notes thereof to this office.

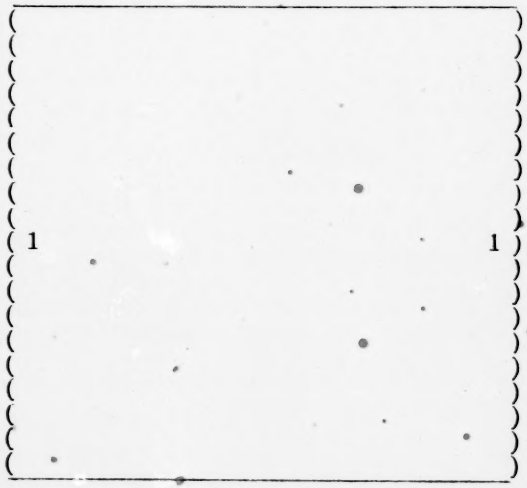
In the meantime you will please acknowledge the receipt of these instructions.

Very respectfully, your ob't serv't,

WILLIS DRUMMOND,
Commissioner.

377 *Field-Notes of the Survey of St. James Catholic Mission Claim, at Vancouver, W. T., by L. Farnsworth, D. Sur.*, 1872.

Index to St. James mission, Vancouver, W. T.



378 I, Alexander McAndrew, do solemnly swear that I will well and faithfully perform the duties of flagman according to instructions given me and to the best of my skill and ability.

ALEX. McANDREWS.

Subscribed and sworn to before me this 9th day of July, 1872.

[SEAL.] G. T. McCONNELL,
Clerk U. S. Court.

We, S. R. Whipple and G. H. Stewart, do solemnly swear that we will well and faithfully execute the duties of chain-carriers; that we will level the chain upon uneven ground and plumb the tally pins, whether by sticking or dropping the same; that we will report the true distance to all notable objects and the true length of all lines that we assist in measuring to the best of our skill and ability.

S. R. WHIPPLE.
G. H. STEWART.

Subscribed by the said S. R. Whipple and G. H. Stewart and sworn to before me, clerk U. S. district court for the 2nd judicial district of Washington Territory, this 9th day of July, 1872.

G. T. McCONNELL,
[SEAL.] *Clerk U. S. Court.*

I, John T. Dillon, do solemnly swear that I will well and truly perform the duties of axeman according to instructions given me and to the best of my skill and ability.

JOHN T. DILLON.

Subscribed by said J. T. Dillon and sworn to before me, clerk U. S. court of 2nd judicial dist. of Washington Territory, this
379 9th day of July, 1872.

G. T. McCONNELL,
[SEAL.] *Clerk U. S. Court.*

Field-notes of the survey of the claim of the Mission of St. James, in section No. twenty-seven (27), in township No. 2 N., of range No. 1 east, of the Willamette meridian.

Surveyed July 10th, 1872.

Beginning in section 27 at a point 5,778 chains S. and 1,449 chs. west of the post corner to secs. 22, 23, 26, and 27 (all traces of the corner to sections 26, 27, 34, and 35 and of the quarter post between secs. 26 and 27 being obliterated), at this point I set a post for N. E. corner to claim, from which an oak 7 in. dia. brs. N. 80 degrees 25 min. E., 197 lks. dist.; an oak 8 in. dia. brs. N. 53 degrees 30 min. E., 228 lks. dist. From this point I run N. 88 degrees west, var. 20 degrees east, 2.15 to the northwest corner of said claim; thence south 7 degrees west, var. 20 east, 2.08 to the north line of the territorial and county road leading from Cowlitz river to the Cascades and southwest corner of claim; thence south 83 east on the north line of said road, var. 20° east 40, front door of church building, 2.13 to the S. E. corner of said claim; thence N. 7° 30′ east, var. 20° east, 2.27 to the northeast corner to said claim and place
380 of beginning, containing $\frac{46346}{100.000}$ of an acre.

LEVI FARNSWORTH,
Deputy Surveyor.

I, Levi Farnsworth, deputy surveyor, do solemnly swear that in strict conformity to the laws of the United States and the instruc-

tions furnished by the surveyor general of Washington Territory I have faithfully surveyed the exterior boundaries of the St. James Roman Catholic mission, at Vancouver, in said Territory, situated in section 27, township No. 2 north of the base line of range 1 east of the Willamette meridian, and do further solemnly swear that the foregoing are the true and original field-notes of such survey.

LEVI FARNSWORTH,
Deputy Surveyor.

Subscribed and sworn to before me this the 10th day of July, 1872. Witness my hand and official seal hereunto affixed the day and year last aforesaid.

G. T. McCONNELL,
[SEAL.] *Clerk U. S. Court.*

We hereby certify that we assisted Levi Farnsworth, deputy surveyor, in surveying the Roman Catholic mission claim at Vancouver, Washington Territory, situated in sec. 27, township No. 2 north of the base line of range No. 1 east of the Willamette
381 meridian, and that said claim has been in all respects, to the best of our knowledge and belief, well and faithfully surveyed and the boundary monuments planted according to the instructions surnished by the surveyor general.

S. R. WHIPPLE, *Chairman.*
G. H. STEWART, *Chairman.*
JOHN T. DILLON, *Axeman.*
ALES. McANDREW, *Flagman.*

Subscribed and sworn to before me July 10th, 1872. Witness my hand and seal of office affixed.

[SEAL.] G. T. McCONNELL,
Clerk U. S. Court.

SURVEYORS GENERAL'S OFFICE, OLYMPIA, W. T.

The foregoing field-notes of the survey of the Catholic mission at Vancouver, situated in sec. 27, t'p 2 N., R. 1 E., of the W. M., in Washington Territory, executed by Levi Farnsworth under special instructions of the 10th day of July, 1872, in the month of July, 1872, having been critically examined, the necessary corrections and explanations made, the said field-notes and surveys they describe are hereby approved.

L. P. BEACH,
Surveyor Gen'l, W. T.

SURVEYOR GENERAL'S OFFICE,
WASHINGTON TERRITORY, OLYMPIA.

I certify that the foregoing transcript of the field-notes of
382 the survey of the St. James mission, at Vancouver, in sec. 27, T. 2 N., R. 1 E., of Will. Mer., has been correctly copied from the origional field-notes in this office.

L. P. BEACH,
Surveyor General, Wash. Territory.

(For duplicate map see vol. 10, place 15. Clerk send this last map with transcript to Sup. Court U. S.)

(Here follows map marked p. 381½.)

WASHINGTON, D. C., *October 30th*, 1872.

Hon. Willis Drummond, Commissioner of the General Land Office.

SIR: The undersigned, representing the authorities of the Roman Catholic church in Oregon and Washington Territory, respectfully invites attention to the survey of the St. James Catholic mission claim, at Vancouver, Washington Territory, forwarded to the General Land Office with the surveyor general's letter of July 31st, 1872, the field-notes of which were approved by the surveyor general of Washington Territory July 29th, 1872.

I hereby protest against the approval of said survey by the Hon. Commissioner of the General Land Office or by the Hon. Secretary of the Interior, and allege that the same does great injustice to the said church, and believe that if opportunity and reasonable time be allowed the fact of such injustice can be satisfactorily demonstrated to the Land Department of the Government.

383 In order to show this it will be necessary to communicate with the church authorities in Washington Territory; and in view of the remoteness of that locality from the seat of Government and the near approach of winter, when, in all probability, there will be interruption of mail communication in consequence of snow on the plains and in the mountains, I respectfully request that ninety days be allowed to make *each* showing as may be deemed proper.

May I ask that a prompe response be given to this letter of protest.

Very respectfully,

T. MESPLIE,
Agent of the R. C. Church.

DEPARTMENT OF THE INTERIOR,
GENERAL LAND OFFICE,
WASHINGTON, D. C., *Aug. 4th*, 1883.

U. S. surveyor general, Olympia, W. T.

SIR: With your letter of the 24th of July, 1873, you forward here the objections made by A. M. A. Blanchet, bishop of Nesqually, as the representative of the Roman Catholic church, against the correctness of the survey of what is known as the Catholic mission claim of St. James, at Vancouver, Washington Territory.

Messrs. Curtis and Burdett, of this city, as attorneys for said mission, filed in this office, with their letter of the 28th ultimo, certain papers for the purpose of showing that said survey ought not to be adopted as the proper survey of said mission. A copy of

384 Messrs. Curtis and Burdett's letter and enclosures are herewith transmitted. The survey herein referred to is that made of said mission claim in pursuance of the decision of March 11, 1872, of the Hon. Acting Secretary of the Interior.

In said decision upon the rights of the mission aforesaid the Hon.

Acting Secretary of the Interior held that on the 14th day of August, 1848, "the Mission of St. James was in actual possession of a small piece of land, upon which had been erected a church, in which the priests there stationed held religious worship;" that "the mission at that date had never asserted any claim whatever, had no enclosure, and was, therefore, only in occupancy of the land covered by the church edifice and such land as was appendant to it;" that "this it occupied" "as a missionary station among the Indians;" that "the society to which said mission belongs has, therefore, a vested title under the act of 1848 to the land upon which the church edifice stands and as much appertenant thereto as at the date of the passage of the act was within the enclosure or used for church purposes," and that a religious society took, under the act of Aug. 14, 1848, "only the land actually occupied as a mission and which was with reasonable clearness set forth by specific boundaries, together with all improvements thereon, the amount in no case to exceed six hundred and forty acres." "On the whole," continues the decision, "I am satisfied that on the 14th day of August, 1848, there was existing a missionary station within the meaning of the act at Vancouver known as the Mission of the St. James, and that such
385 mission then occupied a small tract of land which had been improved by the erection of a church." On the 9th of May, 1872, this office transmitted to L. P. Beach, then U.S. surveyor general for Washington Territory, a copy of the above decision and directed him to take immediate steps to make a survey of the aforesaid mission, and, with letter of July 31st, 1872, that *that* officer returned to this office a survey of the claim, in which letter he stated that from the facts elicited "it appeared that the mission, on the 14th day of August, 1848, had been granted permission from the Hudson Bay Company to erect a small church for mission and religious purposes outside of the stockade on the public commons; that there was no inclosure other than the church erected by any party at that time by which the premises intended to be granted or donated to the mission could be designated," and "that the land subsequently inclosed and now occupied by the mission, which the plat of the survey herewith inclosed will represent, has never been in the immediate possession of or occupied by any other parties so far as I am able to ascertain. I have, therefore, caused the survey to be made within the bounds of and in accordance with such prescribed limits as appear to have been continuously occupied by the mission and which appear most definitely to conform to the decision of the Hon. Secretary of the Interior."

Both that part of this survey including lands which, according to the report of the surveyor general, *was* not occupied by the mission until after the 14th of Aug., 1848, as well as that smaller
386 tract designated thereon by red lines, which included the church and appurtenances and which, according to said report, were understood to represent the land occupied by the mission on the 14th of Aug., 1848, were examined, and on the 10th day of March, 1873, the surveyor general was directed to prepare and transmit to this office a plat and the field-notes of said smaller

tract, if, as supposed by this office, such tract had been found by him to be the only land inclosed by the mission at the date of said act, but if he found in his investigation of the matter that a large area was thus inclosed, then he was directed to make a survey thereof and return the same to the Gen. Land Office at the earliest practicable moment. With letter of April 21, 1873, the surveyor general made a return of the survey and plat of the smaller tract, showing that it was surveyed by Levi Farnsworth on the 10th of July, 1872, at the time the large survey was made, and that it included the only land found by him to have been included by the mission authorities at the date of the passage of the act of 1848; whereupon by office letter of May 19th, 1873, you were advised of the receipt and examination of said survey and field-notes, and that as said survey included all the lands occupied by the mission on the 14th of Aug. 1848, it was, in the opinion of this office, in strict conformity with the limits of the claim as set forth in the decision dated March 11, 1872, by the Hon. Acting Secretary of the Interior. Said survey, however, was not formerly approved by this office, but the letter of May 19th directed you to notify the parties in interest of the contents of said letter and allow thirty days from such notice within which to file objections to said survey, at the expiration of which time you were also directed to transmit to the
387 General Land Office all the papers in the case, together with your opinion thereon.

Your report, dated July 24th, made in obedience to said letter of May 19, 1873, is now before me. By it and the accompanying papers it appears that on the 4th day of June, 1873, you furnished the Rt. Rev. A. Blanchet, bishop of Nesqually, with a copy of the plat and field-notes of the survey of the St. James mission claim made by U. S. Deputy Surveyor Levi Farnsworth on the 10th of July, 1872, and notified him that all parties desiring to file objections to the survey would be allowed thirty days within which to file such papers and protests "as might by them be deemed wise and proper;" and it also appears that no papers were filed in response to this notice except a protest by Bishop Blanchet, wherein, after objecting to the correctness of the decision dated March 11th, 1872, in this case by the Hon. Acting Secretary of the Interior, he protests against the survey made of the St. James mission on the 10th day of July, 1872, "because, even if the decision of the Secretary of the Interior was correct, in his construction of the law, whereby missionary stations should be limited to the land occupied by them, nevertheless the small parcel of land now surveyed and given to the St. James mission is greatly less than that occupied by it on the 14th day of August, 1848, and the said survey and diagram do not include more than a fractional part of what was actually occupied and to which it is entitled, even under the decision of the Secretary of the Interior;" and, further, "because the surveyor general of Washington Territory" did not regard his
388 (Blanchet's) "legal notification, filed in his (the surveyor general's) office," "nor did said surveyor general have the legal right to determine *ex perte* how much ground was occupied by the mission on the 14th of August, 1848."

The greater part of the above letter is composed of protests against the decision of March 11, 1872, by the Hon. Acting Secretary of the Interior, over which decision this office has no control further than to be assured that its requirements are strictly complied with.

Bishop Blanchet, as an officer of the Roman Catholic Church and representing the mission claimants at Vancouver, W. T., procured the consent of the Hudson Bay Company to have established on lands in the compan*ie*'s possession a building to be used by said bishop and those under his charge as a church.

Pursuant to this permission said company thereafter built a church and yielded to said missionary claimants exclusive control thereof, and according to the testimony of this same bishop, taken before the U. S. surveyor general in 1860, this building or church and the land upon which it stood constituted the extent of the missionary occupancy on the 14th day of August, 1848. Other witnesses whose testimony was taken before said surveyor general in 1860 corroborate Bishop Blanchet as to the extent of occupancy by the mission claimants August 14, 1848. Bishop Blanchet being a representative man, acting for and in behalf of the Catholic church in establishing and maintaining said Mission of St. James, cognizant, by virtue of his position and his agency, of all that appertained to, belonged, or was within the control or occupancy of this mission at said date of August 14, 1848, his evidence, in my judg-
389 ment, was and is binding upon the mission claimants and fixes the extent of the mission occupancy as it existed at the date of said act of 1848. I therefore decide that upon the whole record in the case as it now exists that the survey extended July 10, 1872, by Levi Farnsworth, U. S. deputy surveyor, which was reported here with your predecessor's letter of April 21, 1873, covering an area of $\frac{46346}{100.000}$ of an acre, being a part of section 27 in T. 2 N., R. 1 E., W. T., is a substantial compliance with the department decision of March 11, 1872, and said survey is hereby approved and adopted by this office as the final and official survey of the grant in question, and in your official action thereon in the future you will so regard it. You will notify all parties in interest of the purport of this decision, and thereafter be governed by the rules of practice now in force in case of an appeal.

If appeal is not taken within the time allowed by said rules you will thereafter proceed to carry this decision into effect by constructing in triplicate a part of said mission survey, showing its connection with other private and public surveys in said section twenty-seven, T. 2 N., R. 1 E., W. T., one of which you will retain for your files, forward one to this, and the other to the local office at Vancouver.

Respectfully,

L. HARRISON,
Acting Commissioner.

S. S. BURDETT,
Attorney-at-Law, Late Comm'r General Land Office.

W. W. CURTIS,
Late Chief Clerk General Land Office.

P. O. box 396.

390 Curtis & Burdett, attorneys in land cases and solicitors of claims; office, No. 925 F street N. W.

WASHINGTON, D. C., *Oct. 6th*, 1883.

Hon. N. C. McFarland, Commissioner G. L. O.

SIR: On behalf of the Roman Catholic Mission of St. James we herewith enclose notice of appeal and specification of errors from your decision of August 4th last, of which we were advised by your letter of August 7th. So far as we are able to ascertain from the record or otherwise, the city of Vancouver and the military authorities of the United States are the only parties who may be interested adversely to the mission. We have therefore forwarded copies of the notice and specifications to the mayor of the city and to the commanding officer at Ft. Vancouver. We presume from the tenor of the decision and from the interpretation of the rules prevailing that the sixty days for appeal will run from the promulgation of notice, or rather from the receipt of notice promulgated from the office of the surveyor general. Within that period we shall endeavor to file a brief on behalf of the mission to accompany the appeal.

Yours truly, CURTIS & BURDETT.

Before the Honorable the Secretary of the Interior.

391 In the matter of the claim of the St. James mission to a grant of six hundred and forty acres of land in Washington Territory under the act entitled "An act to establish the territorial government of Oregon," approved August 14, 1848.

Appeal from the decision of the Commissioner of the General Land Office, dated August 4th, 1883, approving the survey executed by Levi Farnsworth, U. S. deputy surveyor, July 10, 1872.

Notice of Appeal.

The Roman Catholic Mission of St. James, by the undersigned, its attorneys, appeals from the Commissioner's decision aforesaid and gives this its notice of appeal to the honorable the Secretary of the Interior, praying that the said decision may be reversed and for all proper relief.

CURTIS & BURDETT,
Attorneys for the Mission.

Specifications of Errors.

The said Mission of St. James, declaring its act under the said act approved August 14, 1848, to have surveyed and set off to its use the quantity of six hundred and forty acres of land, says that the honorable Commissioner erred:

First. In holding by intendment that the said act of August 14, 1848, does not by its own terms award the full quantity of six hundred and forty acres of public land.

Second. In determining *ex parte* without notice to the interested

party and without a hearing what lands and what were the boundaries of the tract of land occupied by the said mission at the date of said grant.

Third. In holding that the decision of the acting Secretary of the Interior of March 11, 1872, finally held that a less quantity
392 than six hundred and forty acres of land inured to the said mission under the said act approved August 14, 1848.

Fourth. In holding that the survey made by Levi Farnsworth, U. S. deputy surveyor, covering an area of $\frac{46346}{100.000}$ of an acre is a substantial compliance with the department decision of March 11, 1872.

Fifth. In finding that by the testimony of Bishop Blanchet, taken before the United States surveyor general in 1860, or by any testimony at any time taken the "building or church and the land upon which it stood constituted the extent of the missionary occupancy on the 14th day of August, 1848."

Sixth. In approving the said survey executed July 10, 1872, by Deputy Surveyor Levi Farnsworth.

Seventh. Upon these and other causes manifest upon the face of the record the said mission takes this appeal and prays the judgment of the honorable Secretary therein.

THE ROMAN CATHOLIC MISSION OF ST. JAMES,
By CURTIS & BURDETT, *Its Attorneys.*

DISTRICT OF COLUMBIA, *City of Washington,* } *ss:*

Edward H. Wilson, being duly sworn, deposes and says that on this day there was mailed by registered letter to the mayor of the city of Vancouver, Washington Territory, a copy of the appeal and specifications of error this day filed by Curtis & Burdett, as attorneys for the Roman Catholic Mission of St. James, in the
393 matter of the claim of the said mission to a grant of six hundred and forty acres of land in Washington Territory under the act approved August 14, 1848, as will more fully appear by the receipt for the said registered letter, hereto attached.

The said Edward H. Wilson further deposes and says that on this day there was also mailed by registered letters to the commander of the Vancouver barracks at Vancouver, Washington Territory, a copy of the aforesaid appeal and specifications of error, as will also appear by the receipt for said registered letter, hereto attached.

EDWARD H. WILSON.

Sworn to and subscribed before me this 6th day of October, 1883.

[L. S.]

JOHN B. THOMPSON,
United States Commissioner.

Registered { letter / parcel* } No. 520.

P. O., WASHINGTON, D. C.

Received October 6th, 1883, of Curtis & Burdett, 925 F St. N. W., a { letter / parcel } addressed to the mayor of Vancouver, Wash. Ter.

FRANK B. CONGER, *P. M.*,
Per JNO. P.

Registered { letter / parcel* } No. 521.

P. O., WASHINGTON, D. C.

Received Oct. 6th, 1883, of Curtis & Burdett, Wash., D. C., a { letter / parcel } addressed to the commander of barracks, Vancouver, Wash. Ter.

FRANK B. CONGER, *P. M.*,
Per JNO. P.

394 [Endorsed:] Docket No. 1879. In the district court of the second judicial district of Wash. Ter'y at Vancouver. The Corporation of the Catholic Bishop of Nesqually, pl'ff, *vs.* The United States *et als.*, def'ts. Plaintiff's documentary evidence "A." W. Byron Daniels, referee.

D. Examined. W. H. W. D. T.

DEPARTMENT OF THE INTERIOR, R. A.
GENERAL LAND OFFICE, W. D. S.
WASHINGTON, D. C., *June* 4, 1887.

I, Wm. A. J. Sparks, Commissioner of the General Land Office, do hereby certify that the annexed copies of papers relating to the St. James Catholic mission claim to 640 acres of land at Vancouver, Washington Territory, are true and literal exemplifications of said papers as the same appears on file in this office in the matter of the aforesaid mission claim.

In testimony whereof I have hereunto subscribed my name and caused the seal of this office to be affixed, at the city of Washington, on the day and year above written.

[SEAL.] WM. A. J. SPARKS,
Commissioner of the General Land Office.

395 No. 12. G. 7228.

Affidavit of the Most Reverend Francis Modest Blanchet, Archbishop of Oregon City.

I arrived at Ft. Vancouver on the 24th of November, 1838, in company with Mr. Modeste Demers, now bishop of Vancouver's island, as my missionary associate.

*Erased in copy.

We were sent by the Catholic bishop of Quebec, Canada, "to that part of the diocese of Quebec which is situated between the Pacific ocean and the Rocky mountains." Our instructions, contained in a document dated April 17th, 1838, were:

1st. To consider as the first object of our mission the drawing out from barbarity and disorders the Indian nations spread in that country.

2nd. To consider as the second object of said mission the attending of the spiritual necessities of the Christians, who, having adopted the morals of the Indians, lived in license and the forgetfulness of their duties.

3rd. To preach the Gospel on every opportunity, eother in public or in private; to study the Indian languages so as to be able to publish a grammar of them; to prepare without delay for baptism of Indian women married to white men, so as to be enabled to validate their marriages; to give Christian instruction to children, establishing for that purpose, as much as our means would permit, schools and catechisms in every tribe that we should have an opportunity to visit.

In virtue of these instructions our first establishment was to be made on the Cowlitz river. Our means of existence were to
396 come partly from the Association for the Propogation of the Faith and partly from the contribution of the settlers and natives of this country.

We came on the causes of the Hudson's Bay Company, a free passage having been offered for us to the bishop of Quebec by said company and accepted with gratitude. But from the very moment we left Canada to the present time we were never attached to that company on any respect, either as members, clerks, or chaplains. We were never bound to render them any services, either spiritual or temporal; nor did we ever receive anything from them for whatever religious services we voluntarily rendered them but the kind hospitality they were used to give freely to every stranger.

Our means of personal existence and of supporting our missions in this country from their very commencement to the present time were mainly the Association for the Propagation of the Faith, existing in Europe and Canada, besides large contributions in Europe and Canada and small voluntary contributions of the few Catholic settlers of this country.

In addition to this the Hudson's Bay Company was pleased, in 1842, to place to the credit of the Oregon mission the annual sum of one hundred pounds sterling, in acknowledgement of its eminent services to the settlers of this part of the country at large, as the following true copy of a note addressed to me by Dr. John McLaughlin, then chief factor of said company at Vancouver, testifies:

FORT VANCOUVER, *Nov. 25th*, 1842.

To the Rev. F. N. Blanchet.

REV'D AND DEAR SIR: I have the pleasure to inform you
397 that I am instructed to place one hundred pounds sterling to

the credit of your mission, as an acknowledgement of the eminent services you and your pious colleague are rendering the people of this part of the country; and allow me to embrace this opportunity to repeat to you my sentiments of regard and my best wishes for the success of your endeavor.

I am, with the greatest respect, your obedient and humble servant,

(Signed) J. McLAUGHLIN.

Having reached Vancouver on the 24th of November, 1838, we commenced immediately our missionary labors, which we continued jointly until the month of January following, when I left to commence a mission in the Wallamett settlement, whilst Mr. Demers remained and spent the rest of the winter at Vancouver, instructing and confirming our new converts in the good dispositions. In the spring of 1939 I commenced the mission of the Cowlitz settlement.

Mr. Demers, leaving Vancouver about the same time, visited the Indians of Nesqually, whom he began to instruct, and returned to Vancouver for the month of June to meet the expedition of New Caladonia and Upper Columbia, which used to come down every year at that time. He remained then one month at Vancouver, whence he started for the Upper Columbia, and visited Walla Walla, Okanagan, Colville, instructing the people and baptising the children that were offered to him for baptism all along the route. His journey lasted three months, during which time I took care of the faithful of Wallamette, Vancouver, and Cowlitz. We met
398 again in the month of October at Vancouver, which we had always considered as our place of residence since our coming, in 1838. We parted a few days after, Mr. Demers going to the Cowlitz and I to the Wallamet, in which respective places we spent the winter season. We baptized in this first year 309 persons.

Early in the spring of 1840 we met again at Vancouver to concert our plans for the season. Soon after I left for Nesqually, and Mr. Demers went to visit the Chinooks below Astoria or Fort George. Having spent three weeks among the Chinooks, Mr. Demers came back to Vancouver to meet the expeditions of New Caledonia, the Upper Columbia, and California. He left again Vancouver at the end of June to visit the Indians of the posts of Walla Walla, Okanagan, and Colville, as he had done the year before. In April of the same year, 1840, I was at Nesqually instructing the Indians of that post, whence, upon the invitation of the Indians of the lower part of Puget sound, I proceeded down the sound, visiting those Indians as far as Whitbay's island, where I established a mission by planting a cross, teaching the Indians for some time, baptising a great number of children, reconciling two bel-igerent tribes and establishing a lasting peace among them.

After blessing several marriages and baptising 288 persons in the several posts that we visited we met again in the fall at Vancouver,

and thence we parted, Mr. Demers going to the Cowlitz and I to Wallamet for the winter season.

The persons that we instructed and baptised in all the posts which we and other Catholic missionaries used to visit annually before or after until 1849 either at Vancouver, the Willamet, the Cowlitz, Nesqually, or the posts of the Upper Columbia were mostly Indians, besides the women of all the whites attached to these establishments, who were all Indians, several tribes of Indians were constantly visiting those posts for the purpose of trading and especially Vancouver, as being the headquarter- of the company's establishments in this country. At Vancouver there were constantly Indians from different parts of the country, in the teaching of whom the missionary attending at Vancouver had to spend part of his time, and there have been within my knowledge several hundreds of those Indians baptised at this station from its beginning to the present day. In the spring of 1841 Mr. Demers made the usual mission of Vancouver, whence he visited the Indians of Puget sound.

During his absence I visited Vancouver and the Cowlitz, instructing and catechising the women, children, and other Indians of those posts.

In the spring of 1842 Mr. Demers spent some time in attending to the mission of Vancouver, after which he started for New Caledonia, visiting and instructing on his way up the Indians of Walla Walla, Okanaga, and during the absence of Mr. Demers I attended the posts of Wallamet, Vancouver, and Cowlitz, and visited the Indians of their neighborhood.

Two new missionaries having arrived in the fall of 1842, I took charge of Vancouver, where the servants, their wives, and children, together with the Indians of the neighborhood, constantly asked for my ministry. I continued to spend the most of my time in that mission, until the latter part of July, 1844, being then replaced by Mr. Demers, who continued in charge of that post until the 19th of September of the same year, when Father Nobili had charge of it, until the 28th of November, 1844. At this date, as I had been appointed bishop of the Oregon mission, I started for Europe, leaving Mr. Demers in charge of the administration of the whole mission. I know of certain knowledge by the records of the Vancouver station that the post of Vancouver continued in the charge of Father Nibili until the month of June, 1845, when he was replaced by Father De Vos, who remained in charge of said post until the month of May, 1847, and that the said post was from May to August temporarily attended by Father Joset and Mr. Demers.

After my return from Europe I appointed to the Mission of Vancouver Mr. Delevand, who commenced the exercise of his ministry there in the first part of October, 1847, and continued it until the end of October, 1850, when, that post being separated from the diocese of Oregon City, I ceased to have any more jurisdiction upon it.

(Signed) F. N. BLANCHET,
Archb. of Oregon City.

Sworn and subscribed to before me this 25th —, A. D. 1855.

I. D. BILES,
Deputy Clerk of the U. S. District within and for the County of Clarke and Territory of Washington.

TERRITORY OF WASHINGTON, } ss:
County of Clarke, }

J. B. A. Brouilet, of said county, being first duly sworn,
401 declares on oath that the foregoing is a true and correct copy of the original now in his possession.

J. B. A. BRONILLET.

Subscribed and sworn to before me, at my office, in Vancouver, in said county, this 22nd day of February, A. D. 1860.

WM. KELLY,
[L. S.] *Clerk of the District Court of the 1st Jud. Dist., W. T.*

2351.

J. B. Preston, Esq., surveyor general of Oregon Territory.

SIR: In virtue of the proviso contained in the first section of the act of Congress organizing Oregon Territory, dated August 14th, 1848, and the proviso contained in the first section of the further act of Congress organizing Washington Territory, dated March 3rd, 1853, confirming and establishing in the several religious societies to which missionary stations respectively belong the title to the land, not exceeding 640 acres, occupied at the date of these several acts as missionary stations among the Indian tribes in said Territories, together with the improvements thereon, I hereby claim for and on behalf of the Catholic church to the use of the Catholic mission the land heretofore continuously for six years last past and now occupied as a missionary station among the Indian tribes, known as the St. James mission at Vancouver, and particu-
402 larly described as follows—that is to say: The boundary lines beginning on the southeast side at a big cotton-wood tree on the north bank of the Columbia river, about 200 yards west of Wm. Ryan's house, thence running up to the north one mile and to a stake; thence running west one mile to a stake in the wood; thence running to the south three quarters of a mile to a dead tree on the bank of the Columbia river; thence running east one line to the place of beginn-, containing 640 acres.

The Catholic Mission of St. James, at Vancouver, was established as a missionary station among the Indian tribes of Oregon in the year 1838 and was used for that purpose, with some interruption, until the year 1846, after which latter year the said missionary station has been continuously used and occupied for said purpose up to this date.

Dated at Fort Vancouver, Washington Territory, this 16th day of May, 1853.

(Four blotted words null and four interlined words good.)

AUG. M. BLANCHET,
Bishop of Nesqually.

FORT VANCOUVER, 23*rd May*, 1853.

SIR: Learning that Rev. A. M. Blanchet, bishop of Nesqually, has filed in the office of the surveyor general a claim to a section of land embracing the present site of Fort Vancouver as a missionary station among the Indian tribes in the Territory of Wash-
403 ington, called the Mission of St. James, I have the honor to notify you that no such mission ever existed at this place, but that, on the contrary, the Catholic church here has been sustained in part by the Hudson's Bay Company for their servants, and its clergy have resided here at the sufferance only and by the permission of the company, and have always been paid by the company five hundred dollars per annum.

The idea of its being a missionary station among the Indian tribes is as novel as it is absurd and has never been entertained, in my belief, *my* the claimants even until the filing of the notice.

The section has been used ever since it was settled for purposes entirely different and the Catholic church has only been an incident and subordinate part of its occupation.

I therefore protest against the claim made as false and *and* unfounded so far as it covers more than the church property only at Vancouver, which is occupied by the church and priests' house, and indeed these buildings belong to the Hudson's Bay Company and have always been their property.

At such time as may be proper I will produce testimony to contradict and overthrow the pretence made by Rev. Mr. Blanchet, to whom I have no objection that you should communicate the contents of this letter.

I remain, sir, yours very respectfully,

PETERKEEN OGDEN.
C. F., H. B. Cy.

To Hon. John B. Preston, surveyor general of Oregon, Oregon City.

404 OREGON CITY, 23*rd January*, 1855.

Register of land office, Olympia, W. T.

SIR: The enclosed from P. S. Ogden on the part of H. B. Co. I find in my private papers. It should have been upon the files of the sur. gen'l's office.

Please file it and acknowledge its receipt to me.

I am, very respectfully, your ob't servant,

JNO. B. PRESTON.

No. 2351.

Joseph Petrain, of Clarke county, in the Territory of Washington, being duly sworn, says he is in no way interested in the tract or tracts of land claimed as a missionary station in behalf of the Roman Catholic church by Rev. Aug. M. Blanchet, bishop of Nesqually, and known as the St. James mission, at Vancouver, as is more particularly described in notification No. 2351, hereunto annexed, and

that he knows said tract or tracts of land were occupied as a missionary station among the Indian tribes in Oregon continuously from the year 1846 to the present time.

JOSEPH PETRAIN.

Subscribed and sworn to before me this 19th day of May, 1853, in Oregon City.

JNO. B. PRESTON,
Sur. Gen. of Oregon.

405 No. 2351.

Charles Proulx, of Clarke county, in the Territory of Washington, being duly sworn, says he is in no way interested in the tract or tracts of land claimed in behalf of the Roman Catholic church by Rev. Aug. M. Blanchet, bishop of Nesqually, known as the St. James mission, at Vancouver, as is more particularly described in notification No. 2351, hereunto annexed, and that he knows the said tract or tracts of land were occupied as a missionary station among the Indian tribes in Oregon continuously from the year 1846 to the present time.

his
CHARLES x PROULX.
mark.

Subscribed and sworn to before me, in Oregon City, 19th May, 1853.

JNO. B. PRESTON,
Sur. Gen. of Oregon.

"2351."

OREGON CITY, 31*st Dec.*, 1853.

To Col. Gardner, surveyor general Washington Territory.

SIR: I have the honor to inform you (if not contrary to law) I wish to amend my notification for the claim for the grant to the mission at Vancouver so as to place the mission church as nigh as possible to the center of the claim and the claim to be on a square form and at right angles with the Columbia river. With the greatest regard I am, respectfully,

Your obedient, humble servant,

AUG. M. BLANCHET,
Bishop of Nesqually.

406 "2351."

J. B. Preston, Es'u., surveyor general of Oregon.

SIR: Please allow me to make the boundary lines of the section of land claimed for the "St. James mission at Vancouver" more definite, so that there can be no misunderstanding about them. Please, then, add to the document that I filed up to your office on the 16th of this month, in relation to the claim of said "St. James mission at Vancouver," the following as being the true boundaries of said section of—that is to say, "the southeast corner post is a big

cotton-wood tree on the north bank of the Columbia river, about 200 yards westward of Wm. Ryan's house; thence the line runs down the Columbia river westwardly one mile or more along the low-water edge of said river to a dead tree on the north bank of said river Columbia, thence it runs up north three-quarters of a mile to a stake, thence runs eastwardly a little more than one mile to another stake, thence runs south one mile and a quarter to the place of beginning, containing 640 acres."

Dated at Fort Vancouver, Washington Territory, this 28th day of May, 1853.

AUG. M. BLANCHET,
Bish. of Nesqually.

407 *Affidavit of the Right Reverend Modeste Demers, Bishop of Vancouver's Island.*

In the year eighteen hundred and thirty-seven I was sent by his lordship the bishop of Quebec, Canada, on the Red River mission, and the year following the Right Reverend I. Norbert Provincher, bishop of the above-mentioned mission, nominated and appointed me as associate to the Very Reverend F. Norbert Blanchet, acting at the time in the capacity of vicar general of the bishop of Quebec, to superintend the mission we were sent to establish in Oregon.

The object of our thus being sent to Oregon and our instructions were, first, to preach the gospel to the natives scattered over the Territory of Oregon, and, next, to reclaim from vice and immorality and to bring to the practice of the duties of their religion a great number of our countrymen who had been or still were engaged in the service of the Hudson's Bay Company.

We arrived at Fort Vancouver, on the Columbia river, on the 24th day of November, 1838, and I remained there till the 23rd of April following, being laboriously engaged in the sacred ministry among the Indians about the fort, the Canadians, their wives (Indian) and their children.

From that time down to 1844 I was in the habit of coming to the fort several times a year for the same purpose as mentioned above; some other times the vicar general would go himself and stay for several weeks together, taking care of both the Indians and Canadians.

408 That same year, 1844, the Very Reverend F. Norbert Blanchet, on account of his having been appointed bishop for the Oregon mission, left for Canada and the old countries, he having previously nominated me to take charge of the mission during the time of his absence. Then some other duties prevented me from attending the missionary station at Fort Vancouver, but that mission was not left without a clergyman. If it was, it must have been for a very short time; either F. I. Nobili or F. P. Devos regularly attended it; and at the time of my departure for Europe, in the spring of 1848, the Reverend Mr. Delevand was in charge of it, and I know of certain knowledge that since that time there always has been a clergyman attached to it. According to an agreement between the

bishop of Quebec and Sir George Simpson, governor of the Hudson's Bay Company, we (the Very Reverend F. N. Blanchet and I) were granted a free passage from Montreal over the Rocky mountains to the Pacific with the company's brigade. For some years the company made our mission an annual grant of a hundred pounds, but, as the word grant implies it, they did not do so on the strength of any contract with us, but were actuated by a sence of generosity for the good we were doing in the country. It was a spontaneous gratuity on their part, for we never were in any way in the company's service, and they never pretended to exercise any control whatever over us.

In support of the truth of this statement I might call to witness all the Hudson's Bay Company's officers, clerks, and servants
409 that have been living at the fort at that time. Such being the case, I do not see how it could be established as a fact that there never was a Catholic mission and a missionary station at Fort Vancouver, unless the words have no longer their true and natural meaning.

X MOD. DEMERS.
Bishop of Vancouver's Island.

Sworn and subscribed before me this 24th day of March, A. D. 1860.

[L. S.] GEORGE PARKER,
Notary Public.

Plaintiff's documentary evidence "B."

W. BYRON DANIELS, *Referee.*

The end of volume three.

410 CATHOLIC BISHOP OF NESQUALLY
vs.
THE UNITED STATES *et al.*

Referee's Report, Vol. 4.

Plaintiff's documentary evidence "C."

VANCOUVER, WASHINGTON.

Filed November 12th, 1888.

A. REEVES AYRES, *Clerk,*
By W. K. JOHNSON, *Deputy.*

411 Examined. D. T.

DEPARTMENT OF THE INTERIOR, R. A.
GENERAL LAND OFFICE, W. D. S.
WASHINGTON, D. C., *June 4th*, 1887. J. M.

I, Wm. A. J. Sparks, Commissioner of the General Land Office, do hereby certify that the annexed copies, namely, 1st, letter from Anson G. Henry, surveyor general Washington Territory, dated April 29th, 1863, addressed to this office; 2nd, part of the papers

transcribed by said surveyor general, certified by him and transmitted with his said letter, are true and litteral exemplifications of the original letter of said surveyor general and of so much of the certified copies aforesaid as they purport to show as the same appears on file in this office in the matter of the St. James Catholic mission claim to 640 acres of land at Vancouver, Washington Territory.

In testimony whereof I have hereunto subscribed my [SEAL.] name and caused the seal of this office to be affixed, at the city of Washington, on the day and year above written.

WM. A. J. SPARKS,
Commissioner of the Gen'l Land Office.

SURVEYOR GENERAL'S OFFICE,
OLYMPIA, W. T., *Ap'l 29th*, 1863.

Hon. J. M. Edmunds, Com'r Gen'l Land Office.

SIR: In obedience to your instructions of the 13th inst. by
412 telegraph, received here on the 21st inst., I herewith send you certified transcript of all the papers in the hearing and adjudication of the Catholic mission claim town site, A. M. Short's donation claim, and military reservation at Vancouver; also copies of notifications, depositions, letters, etc., referred to in said case.

The orthography and punctuation is same as in the originals.

Very respectfully your ob't serv't,

ANSON G. HENRY,
Sur. Gen'l W. T.

(Endorsed:) G. 19262. Sur. general, Olympia, W. T., April 29th, 1863, as per telegraph of 13th instant, transmits certified transcript of all the papers in the adjudication of the Catholic mission claim, &c., &c.

In the matter of the contested land claims at Vancouver, Washington Territory, before Sur. Gen'l J. Tilton.

The Deposition of Joseph Petrain, a Witness Called on Behalf of the Roman Catholic Mission of St. James.

413 JOSEPH PETRAIN, having been first duly sworn by Surveyor General TILTON, deposes and says as follows:

Questions by Mr. FARRAR:

Int'y 1. What is your name, age, occupation, and place of residence?

Ans. Joseph Petrain; age, forty years; farmer, and reside about three miles below Vancouver, on the Columbia river. I am the probate judge of this (Clarke) county.

Int'y 2. When did you first come to Oregon?

Ans. In the year A. D. 1837. I arrived at Vancouver on the 4th day of Nov., 1837.

Int'y 3. From that time how long did you live at Vancouver?

Ans. Most all of the time since. In the spring of 1838 I went

down the coast to Cala, and was absent about three months. With the exception of those three months I was at Vancouver all the time until the spring of 1849.

Int'y 4. Are you not acquainted with F. N. Blanchet and Modeste Demers or either of them?

Ans. I am very well acquainted with them.

Int'y 5. Were you not at Vancouver when they first arrived there? And, if so, state the time of their arrival.

Ans. I was, sir; they came here (Vancouver) some time in Nov., 1838. They were the first Catholic missionaries who came to Oregon.

Int'y 6. In what capacity did they come to Oregon; what was their business or calling?

Ans. They came as missionaries; they were Catholic priests.

Int'y 7. When they arrived were you or not in the service
414 of the H. B. Co.; and, if yea, up to what time did you remain in the employment of the company?

Ans. I was, sir; and remained in the company's employment till in December, 1848.

Int'y 8. Who was the chief factor at Vancouver of the H. B. Co. in Nov., 1838?

Ans. Dr. John McLaughlin.

Int'y 9. How long did he continue to be the chief factor at Vancouver?

Ans. I can't tell exactly. Until about 1844 or 1845. I am unable to state with any certainty.

Int'y 10. From the time of the arrival of the Messrs. Blanchet and Demers, in 1838, did they act and perform labor as missionary priests?

Ans. Yes, sir; they did.

Int. 11. Did or not the*t* establish a missionary station at Vancouver?

(Objected to by Holbrook.)

Ans. Yes, sir; I believe so.

Int. 12. State whether or not there has been a Catholic missionary station at Vancouver since 1838 to the present.

(Objected to.)

Ans. I believe there has always been a Catholic missionary station at Vancouver since the arrival of the Rev. Fathers Blanchet and Demers, in 1838, to the present time.

Int'y 13. State whether or not there were many Indians at and near Vancouver in 1838.

Ans. Yes, sir; I believe there were a great many.

415 Int'y 14. State whether or not there were many Indians living at and near Vancouver from 1838 to 1849 and between those dates.

Ans. Yes, sir; from 1837 to 1842 there were from fifteen hundred to two thousand living at Vancouver. In the summer time they used to go away after berries for their winter support.

Int'y 15. From 1842 to 1849 about how many Indians were there at Vancouver?

Ans. Not a great many; from three to five hundred.

Int'y 16. Do you or not know of your own knowledge whether Rev. Messrs. Blanchet, Demers, and other Catholic priests preached to and instructed the Indians at and near Vancouver between 1838 and 1849 and in each of those years?

Ans. Yes, sir; I have seen different Catholic priests instructing and preaching to the Indians. I have been present many times at such instructions.

Int'y 17. State whether or not you have seen and heard other Catholic missionaries at Vancouver engaged in instructing the Indians.

Ans. Yes, sir; Father Cherouse, Father Devas, Father Delevand, Father Langlois, Father Nobili—I don't now recollect any other names; also Messrs. Blanchet, the bishop, and Mr. Demers.

Int'y 18. State whether or not Indians were in the practice of attending church services from 1838 to 1849 at Vancouver.

Ans. Yes, sir; until 1855 and 1856.

Int'y 19. Where were the church services at Vancouver held after the arrival of the missionaries, in 1838?

416 Ans. Inside of the pickets of the company.

Int'y 20. Down to what time?

Ans. Down to 1843, '4, or '5.

Int'y 21. From 1838 to 1846 did you live, inside of the pickets of the Co.?

Ans. Yes, sir; till 1849. I did not understand you. I did not live inside of the pickette; I lived outside in the camp. My house stood near where Capt. Ingalls' house stands.

Int'y 22. Were you or not often at the building inside of the pickets which was used for religious purposes by the missionaries?

Ans. Yes, sir; most every day.

Int'y 23. State whether or not Indians were in the habit of going there to church and for instruction.

Ans. Yes, sir; a great many of them.

Int'y 24. Do you know when the present church edifice was commenced?

Ans. I do not remember the date.

Int'y 25. Can you state about how long it was from the time the work commenced before the church was dedicated?

Ans. It was from two to three years.

Int'y 26. Do you or not know who selected the site for the church?

Ans. Dr. McLaughlin and Mr. Douglas.

Int'y 27. Were you or not present at the time?

Ans. I was, sir.

Int'y 28. Who else was?

Ans. John Finlay and the present archbishop of Oregon City and Father Demers; I think both Mr. Blanchet and Demers were present; I am certain Mr. Blanchet was.

417 Int'y 29. Were you or not present when the present church building was blessed and dedicated?

Ans. I was, sir.

Int'y 30. State whether or not any officer of the H. B. Co. at Vancouver was present at that dedication.

Ans. Yes, sir; most every one of them were present.

Int'y 31. State whether or not Chief Factor Douglas was present.

Ans. He was, sir; with all of his family.

Int'y 32. State who was the missionary there in charge of this station.

Ans. Rev. Father Devas, and he officiated at the dedication of the church.

Int'y 33. State whether or not you signed any book or register as a witness of the dedication of the church.

(Objt. to.)

Ans. I did, sir.

Int'y 34. Examine the register now handed you and answer if you signed your name as it appears in said register to a record of the dedication of said church.

Ans. Yes, sir; that is my signature. I know the handwriting of James Douglas, John Finlay, and Father Devas, and these signatures to the record are their genuine signatures made by them. The signatures were all made at the time of the dedication of the church.

Int'y 35. Can you now state when said church was blessed and dedicated?

Ans. It was in the year A. D. 1846.

Int'y 36. Can you state whether any repairs were made to said church building from the time it was dedicated up to 1852?

418 Ans. Yes; there was a good deal done to it by the bishop or mission.

Int'y 37. Do you recollect whether the church was ever reshingled, and when?

Ans. I recollect it was, but don't recollect exactly the time when. I think in 1852 or 1853.

Int'y 38. At whose expense?

Ans. At the bishop's.

Int'y 39. State whether the church has been extended and enlarged, and when.

Ans. I believe it has been made bigger, but I can't tell the year.

Int'y 40. State whether or not there was a missionary station at Vancouver in Aug., 1848, among the Indians; and, if so, who was the missionary priest then in charge?

Ans. Yes; there was; and Rev. Father Delevand was in charge of this mission here.

Int'y 41. State whether or not you were married in 1848; and, if so, where and by whom.

Ans. I was, sir; married in the church building by Father Delavand. It was on the 14th day of August, 1848. I am mistaken, it was Father Accolti who married me and not Father Delavand. Father Delevand was in charge of the mission here then, and Father Accolti was here then on a visit; Father La Bas was also here then.

Int'y 42. State whether or not there were any Indians in the church on that day.

Ans. There were some, but I don't recollect now many there were.

Int'y 34. State whether or not the missionaries were in the
419 practice of visiting the Indians at their camp in Vancouver.

Ans. Yes, sir; I have often been with them myself and seen them instruct the Indians at their lodges at Vancouver.

Int'y 44. State whether or not you have ever been present when the missionaries baptized Indians at the mission station.

Ans. Yes, sir; many times. I recollect one time when I was a witness to the baptism of over forty Indians. Rev. Mr. Demers was the missionary then. I have seen Fathers Delvas and Delavand baptize many Indians at Vancouver and at different times.

Int'y 45. In what tongue or language were the Indians instructed by the missionaries?

Ans. In the jargon, the French, the Klickitat. I recollect of seeing the present archbishop (F. N. Blanchet) instruct the Cascade Indians in their own language or tongue.

Int'y 46. Did you or not ever hear the missionaries preaching to the Indians in the "jargon"?

Ans. Yes, sir; most all the time they did in the "jargon," and instructed them in that tongue. The Indians used to sing in church in the "jargon."

Int'y 47. State whether or not the Indians knew or had learned so as to repeat many canticles in the "jargon."

Ans. Yes, sir; and the missionaries taught the catechism to the Indians in the "jargon." I have heard the missionaries here ask questions from the catechism in "jargon" and the Indians answer the questions in the same.

Int'y 48. State whether or not the servants of the Co. con-
420 tributed to the support of the mission.

Ans. Yes, sir; they did. I did. I subscribed ten shillings sterling at one time.

Int'y 49. State whether or not the chief officers of the H. B. Co. at Vancouver advised the employees of the Co. to contribute to the support of the mission.

Ans. Yes, sir; I have heard Dr. McLaughlin and Chief Factor Douglas many times advise their people to allow something to the support of the missionaries and the mission.

Int'y 50. While in the service of the Co. did you ever hear the missionaries spoken of or called chaplains by the chief officers at Vancouver—by any of the chief officers?

Ans. I never did. There was at one time a Protestant clergyman at the fort, and I don't know whether he was a chaplain or not.

Int'y 51. State whether or not you ever heard the priests spoken of by Dr. McLaughlin or by Governor Douglas; and, if so, what were they called by those H. B. Co. officers?

Ans. Every time I had occasion to talk with Dr. McLaughlin and with Mr. Douglas they spoke of the priests as missionaries or as "your missionary" or as Mr. Blanchet or Mr. Demers. Dr. Mc-

Laughlin and Mr. Douglas used to talk in French to me and the other Frenchmen here.

Int'y 52. State whether or not you ever heard any of the priests at Vancouver tell the Indians why they came to Oregon and who they came to aid; and, if so, state the same.

(Objt. to.)

Ans. I have heard them. They used to tell the Indians they came to this country to instruct them. They used to tell the
421 Indians that their (the missionaries) chief in Canada sent them here to instruct them, to learn them the ways of the whites. I heard Mr. Demers tell the whites in church once that they were not sent out here only to attend the whites, but they had been sent here to attend to the Indians, and that if the whites acted as they had been doing they (the missionaries) would leave and live altogether with the Indians.

Int'y 53. What was your particular duty while in the employment of the H. B. Co.?

Ans. I was the baker for the establishment.

Int'y 54. Do you know the small building near the church on the east side?

Ans. Yes, sir.

Int'y 55. Is it or not attached to the church building?

Ans. Yes, sir; it used to be.

Int'y 56. When was it built?

Ans. The frame was built the same time the church was.

Int'y 57. For what purpose was it intended?

Ans. For the dwelling of the priest.

Int'y 58. Did you ever know or hear of that small building being used for church services?

Ans. No, sir; I have no recollection of ever hearing it was; in 1852 or 1853, when the church was being repaired under the direction of the Rev. Mr. Bronillet, I think mass was said once, at least, and perhaps more, in that small building.

Int'y 59. Did you know Amos M. Short?

422 Ans. Yes, sir.

Int'y 60. State when the first came to Oregon, if you know.

Ans. I do not exactly know. I became acquainted with him in 1846.

Int'y 61. Are you acquainted with the land claim now claimed by his widow and heirs?

Ans. I am not very positively acquainted with all the boundaries; I know the land generally.

Int'y 62. State, if you know or have heard Short say, when he made his corners.

Ans. In 1850, at his own house, Short told me that his claim ran from the S. W. corner back north one mile, and that his east line, running north from the river, was one mile and a quarter. I don't know that he said his east and west lines, running from the river, ran due north or not.

Int'y 63. Did you ever know a Dr. Gardner, and where?

Ans. I have seen him at Vancouver; was not much acquainted with him. I have seen him living in his own house, which was some three hundred yards or more from the western wharf. I can't say that he owned the house; he was the only person living in it.

Int'y 64. When was it that you saw Gardner living there?

Ans. I think it was in 1850 or 1851.

Int'y 65. Do you or not know whether he was a claimant of a part of the land now claimed by Short's widow and heirs?

Ans. I don't know only from what I have heard from others. I never heard Gardner or Short say whether he was or not.

423 Int'y 66. State whether or not you have known any other person or persons claiming the easterly part of the land now claimed by Short's widow and heirs.

(Question objt. by Shattuck.)

Ans. Yes, sir; I have understood there were other claimants.

Int'y 67. Who were those other claimants?

Ans. I heard that Gardner claimed the eastern part of the claim, and that Kellog did. I never knew of this from the claimants, but from others.

(Question and answer objected to by Shattock.)

Int'y 68. Where is Gardner?

Ans. He is dead; he was shot by Mr. Short.

Int'y 69. State whether or not any other person was shot by Short on the same day.

Ans. I understood there was; I didn't see anything of it myself.

Int'y 70. Whether or not Gardner was shot on the easterly part of the land?

Ans. Yes, sir; he was.

Int'y 71. Was he residing on it then?

Ans. Yes, sir.

Cross-examination by Mr. HOLBROOK in behalf of military reservation, etc.:

Int'y 1. How old were you when you came to Oregon?

Ans. I was seventeen years old.

Int'y 2. Have any interest in any part of the land in dispute?

Ans. No; I have not.

Int'y 3. Has any person promised you any lots or interest
424 in land or any benefit if the mission claim should be confirmed?

Ans. Not one particular. Nobody ever offered me anything or put me in mind of it.

Int. 4. Who built the Catholic church?

Ans. The Hudson Bay Company.

Int'y 5. What land did the priests, or what you have called the mission, occupy in 1848?

Ans. The land on which the church is built. I don't know that they occupied any more.

Int. 6. Who built the small house adjacent, spoken of by you?

Ans. The frame was put up by the Co.; I think it was finished by the mission, though I cannot swear to it.

Int. 7. What do you mean by saying there was a mission station at Vancouver in 1848?

Ans: I mean the successor of the first missionary that was here at that time performed the same duties as his predecessor did.

Int'y 8. Where did he live?

Ans. In that little house by the church. It was in that year, or in 1849, they made their residence there.

Int. 9. Who was he?

Ans. Father Devos; the same who dedicated the church.

Int. 10. Who succeeded him?

Ans. Father Delavand.

Int. 11. When did he come?

Ans. I don't know when.

Int. 12. Will you swear he was not here in 1848?

Ans. I could not. I don't remember to have seen him.

425 Int. 13. Was he not here, and did he not live in the fort?

Ans. Yes; I believe he was.

Int. 14. Did any priest then ever live in the small house in 1848 or 1849?

Ans. Yes; Father Delavand.

Int. 15. Will you swear that Father Delevand did not live in the fort all the time he was a priest here?

Ans. I cannot tell.

Int. 16. Can you swear he ever lived in the small house?

Ans. Yes, he did; I have seen him sleeping there.

Int. 17. When—in what year?

Ans. In 1850. I am not certain I ever saw him there before that.

Int. 18. Don't you know that the H. Bay Co. leased that building to Lt. Denman in 1850?

Ans. I knew I saw an officer there. I believe it was Maj. Simonson. I don't recollect any other officer being there.

Int. 16. Did Father Delavand live there then?

Ans. I don't recollect. I think he was there with the officer. I can't tell exactly how it was.

Int. 17. Will you say he ever lived anywhere except inside the pickets of the Co.?

Ans. Yes, sir, he did; in the small house by the *the* church.

Int. 18. You say repairs were made on the church by the bishop before 1850; what were they?

Ans. I did not intend to say any were made by the bishop before 1850; there were none. I supposed the question referred to 1852.

Int. 19. When did Delavand baptize Indians?

426 **A. I can't tell—at different times.**

Int. 20. Do you know what his habits were as to temperance and chastity?

(Objected to by Mr. Farrar.)

Ans. I never saw him drunk, though I have seen him taking liquor. I never knew or heard anything affecting his chastity.

Int. 21. Did you ever see 2,000 Indians at Vancouver?

Ans. When I first came, in the winter, I believe there were more than 2,000 here at one time.

Int. 22. Did you ever know the priests to cultivate any land or to fence any field before 1850?

Ans. I don't recollect that they did or nor.

Int. 23. When did you first hear that the priests proposed to hold a mission claim here?

Ans. I think it was in 1852.

Int. 24. Before they made this proposition had not there been a military reservation and lots sold below the reservation for a town site?

Objected to by Mr. Farrar.

Ans. I think the reservation had been laid out and some lots had been sold.

Int. 25. Did not the H. B. Co. own everything which was occupied by the mission in 1848?

Objected to by Mr. Farrar.

Ans. I don't know.

Int. 26. Had not the Co. built all that the priests occupied
427 and boarded them and furnished them with fuel and quarters till that time and during that year?

Ans. Yes; it had.

Int. 27. Will you testify that you ever heard Archbishop Blanchet preach in jargon or any Indian language?

Ans. Yes; I have many times heard him in Chinook or jargon.

Int. 28. Did Delavans keep up service regularly in 1848?

Ans. I believe so.

Int. 29. Don't you know that no service was held for many months, except when there was a marriage or burial?

Ans. I don't recollect.

Int. 30. Did you go to church during that year except when you was married?

Ans. I believe I attended church almost every Sunday.

Int. 31. Do you know of any attempt to hold land for a mission anywhere else in this Co.?

Ans. Never.

Int. 32. Did not some of the priests propose a mission at Third Plain?

Ans. They never did claim any as a mission. I had bought some land there—a claim from Burnel—and sold it to Father Levas as his personal property, not mission property. He took the stock and carried off. I put a cross on it, and understood two others were put there afterwards—in the grave-yard.

(Objected to by Mr. Farrar.)

Int. 33. Who claims that land now?

428 (Objected to.)

Ans. Mr. Morrow.

Int. 34. Has not some one been trying to get it for the priests?

Ans. I don't know; I never heard of any.

Int. 35. Had not the priest La Bas made some improvements there before Brunel took the land?

Ans. No; I made the improvements after I bought it.

Cross-interrogatories by E. D. SHATTUCK on behalf of Mrs. Short:

Int. 1. You speak of the labor of Messrs. Blanchet and Demers as missionaries. What do you mean by their labor as missionaries?

Ans. I mean to attend to their religious duties towards all the people here—whites and Indians.

Int. 2n-. You speak of missionary stations here. What do you mean by that expression—missionary station?

Ans. It is their residence at one certain post—the place where they reside.

Int. 3. Was this a missionary station among the Indian tribes in 1848?

Ans. I believe it was.

Int. 4. Explain what you mean by among the Indian tribes.

Ans. I can't answer that. I mean where Indians are residing—their native country. There were also over a hundred Sandwich Islanders here when I first came, in 1837.

Int. 5. What Indian tribe owned this country about Vancouver in 1848?

Ans. I believe the Clickitat tribe.

429 Int. 6. How many had their homes or regular abiding place at or about Vancouver in 1848?

Ans. I suppose from three to five hundred.

Int. 7. How do you know it was that number?

Ans. I only speak what I suppose to be their number from a recollection of their different camps.

Int. 8. Are not the Clickitats a wandering tribe and did they not claim many tracts of country in many different parts of Oregon?

Ans. Yes, sir; I believe so.

Int. 9. Were not the whites and Kanakas as numerous here at Vancouver in 1848 as the Indians or even more numerous?

Ans. No, sir; they were not by a good deal.

Int. 10. Was the church service you speak of for whites or for Indians?

Ans. For both; free to all.

Int. 11. Was the church building erected by the Co. for the instruction of the Indians or chiefly for the religious use and benefit of their own servants and people?

Objected to by Mr. Farrar.

Ans. I think the church building was erected by the company

for the missionaries, and I understood it was a gift to them. I understood so from the agent of the Co.

Int. 12. For whom was service first held in it, for the Indians or for the whites?

Ans. For both.

Int. 13. In what language?

Ans. In the French; and in 1848 the English was used, too, a good deal.

430 Int. 14. When did A. M. Short first set up a claim to the land now claimed by the widow and heirs?

(Objected to by Mr. Farrar.)

Ans. I don't know exactly. I believe in the fall of 1849; after I arrived from California, from the mines.

Int. 15. Were you here in December, 1846, and in December, 1847?

Ans. I believe so; both years.

Int. 16. Was not Short and his family on that land setting up a claim to it in 1847?

Ans. I believe he did come on that claim in 1847.

Int. 17. Did he not build a house then, that year, and did not the servants of the Hudson's Bay Company tear it down and send Short's family off down the river in a boat?

Ans. Yes, sir; I recollect there was such a thing reported to me; I did not see it.

Int. 18. Do you know the site or place where that house stood? If you do, define it with reference to the wharf at Strykers.

Ans. I do not know the place.

Int. 19. When did Dr. Gardner come to this county?

Ans. I do not know. I think I first saw him in 1850.

Int. 20. How long did he live at the place you have described in your direct examination?

Ans. I don't remember. I saw him in the spring. I suppose two or three months.

Int. 21. Do you know where the west or lower line of the claim called "the fort claim" is?

Ans. I believe the west line of the fort claim was about one hundred and fifty rods below Short's east line.

431 Int. 22. Where was Short's east line—the first you knew of it?

Ans. It was, I suppose, about 150 yards below Strykers. This was in 1847, I think, and about the same time I saw him surveying above Strykers, by what is called the "Salmon house."

Int. 23. How far from the "Salmon house" is the Government post or the lower corner of the present military reservation?

Ans. I don't know exactly. It is not far; I suppose from 200 to 300 yards.

To Mr. HALBROOK:

Int. Did you in 1848 know of Delavand preaching in any Indian language?

Ans. Yes; he did preach in jargon.

Int. During the year did he instruct Indians in the cathechism or in any way?

Ans. He did.

Int. What is your religious creed?

Ans. I am a Catholic.

Int. Did Father Delavand generally preach in French?

Ans. Yes, sir, except sometimes in Chinook or jargon to the Indians.

Int. Was it not the custom to preach in jargon to others besides Indians?

Ans. Not that I know of; the Kanakas understood it.

Int. Did Delavand ever preach in the Klickitat?,

Ans. I think not.

Int. Was there not a Kanaka priest here who preached to the Sandwich Islanders and instructed them?

432 Objected to by Mr. Farrar.

Ans. I don't know whether he was a priest or not, but I have seen William, a Kanaka, teaching them.

Int. When did he come here?

Ans. In 1844, I think.

Int. Where did he have his religious exercises?

Objected to by Mr. FARRAR.

Ans. Inside the fort.

Int. How long did he continue at Vancouver?

Ans. Continued about two or three years.

Int. Did he not preach in jargon or Chinook?

Objected to.

Ans. No; I think not.

Questioned by Mr. FARRAR:

Int'y 1. In reply to the question (X Int'y 3rd), put by Mr. Holbrook, if any person has promised you any lots or interest in land or benefit if the mission claim be confirmed, you answered, "Not one particular." What do you mean by not one particular?

Ans. I mean not at all. I never heard anything of the kind from any one.

Int'y 2. Do you or not know when the bishop of Nesqually came here as bishop?

Ans. In 1850 or 1851.

Int. 3. Do you or not know when the Rev. Mr. Bronillet came here and took charge of the station?

Ans. I believe he came at the same time the bishop of Nesqually did.

433 **Int'y 4. What missionary priest was here when Father Bronillet took charge?**

Ans. Rev. Father Delavand.

Int'y 5. Are you or not certain what missionary was in charge of

this missionary station at the time you were married in Aug., 1848?

Ans. I am certain it was Father Delavand.

Int'y 6. Was Father De Vas here before or after Father Delavand?

Ans. Before.

Int'y 7. Can you now tell the year in which Father Delavand took charge of the mission station?

Ans. I now think he came here in the fall of 1847 and took charge of the mission.

Int'y 8. In your cross-examination you said you thought Rev. Mr. De Vas was here in 1848 or '9; what do you now say—was he here then or not?

Ans. He was not here in 1848 or '9; I was mistaken. He went away in 1847.

Int'y 9. When you said you did not recollect of seeing Mr. Delavand here in 1848 were you or not mistaken?

Ans. I was mistaken, certainly; I was married on the 14th of Aug., 1848, and Father Delavand was present in church at the time.

Int'y 10. You have spoken of Major Simonson stopping in the small house by the church; was not that after Father Bonillet came here and took charge?

Ans. I believe it was.

Int'y 11. Then what did you mean when you said that
434 you thought he lived in the small house with Mr. Delavand?

Ans. Well, it was a mistake of mine; he might have been here, though, a part of the time. Mr. Delavand was.

Int'y 12. You have answered that you have seen Father Delavand drink some; did or not you ever see him affected by liquor?

Ans. I never did, sir.

Int'y 13. You say some lots were sold below the military reservation before 1852; by whom were they sold?

Ans. I don't know; I can't tell.

Int'y 14. In reply to a question put by Mr. Hollbrook you say Father Delavand usually preached in French, and that he sometimes preached in Chinook or jargon; did he or not preach as often in the Chinook tongue as in French, or oftener?

Ans. About as much in one as in the other, I should think.

Int'y 15. Is the Chinook and jargon one and the same?

Ans. There is a difference; I don't think there are a half dozen persons who understand Chinook.

Int'y 16. What do you mean, then, when you say the missionaries preached in Chinook?

Ans. I mean in the "Chinook jargon," which was spoken by almost all the Indians and was understood by the whites.

Int'y 17. Did Short ever show you his N. W. corner?

Ans. No, sir; he promised me to do it, but died before he did; nor his N. E. corner. He showed me his S. W. corner.

Int'y 18. Where was it?

Ans. About the same place it is now.

435 Int'y 19. Is it or not below or to the west of where Mr. Parker now lives?

Ans. It is a very little and south of the house of Parker; it is as much south as west of it.

Int'y 20. In answer to Int'y 13 of Mr. Shattuck, your answer is written that the service was held in the church in French; did you or not say that service was in the Chinook and also in the French?

Ans. Yes, sir; I did.

Questions by Mr. HALBROOK:

Int'y 1. Was not the "jargon" understood by all the servants of the H. B. Co.'s?

Ans. By most every one.

Int'y 2. From the time you came here up to '48 who exercised control over and governed the country north of the Columbia river, and especially in the vicinity of Vancouver?

Ans. Dr. John McLaughlin and James Douglas, as officers and chief factors of the H. B. Co.

JOSEPH PETRAIN.

(Endorsed:) (19.) Judge Petrain. Deposition. Mission.

(Duplicate of volume 3, page- 154, 155.)

436 (Duplicate of volume 3, page 156.) 402.

(Duplicate of volume 3, page- 160, 161.) 404.

(Duplicate of volume 3, page- 160, 161.) 405.

(Duplicate of volume 3, page- 163, 164.) 405–406.

(Duplicate of volume 3, page 162.)

(Filed with notification:)

I have compared the foregoing with the originals on file in this office and find them to be true copies.

I also certify that, with the exception of a deed of reservation for ten acres included in the annexed notification to the Territory for the erection of a penitentiary, filed June 24th, 1858, they are the only papers on file supporting the claim of the "St. James mission at Vancouver."

Register's office, Olympia, Washington Territory, February 2nd, 1860.

WM. M. RANDALL,
Acting Register.

437 (Duplicate volume 3, Pl. B., C.)

I certify that I have carefully compared the foregoing with the original affidavit on file in the register's office at Olympia, W. T., and find the same to be a true and correct copy of said affidavit.

In testimony whereof I have hereunto set my hand and affixed my official seal this 10th day of April, A. D. 1860.

[SEAL.] WM. M. RANDALL,
...ic, 2nd Judicial Dist., Thurston Co., W. T.

(Endorsed:) (11.) St. James Catholic mission. Notification and proofs of occupancy, &c., &c.

(Endorsed:) Transcript of papers on file in office of register of Washington Territory. Claim of St. James mission at Vancouver. Affidavit of Rev'd Mr. Demers.

To the surveyor general of the Territory of Washington:

Pursuant to notice issued from your office that you would on the 23rd of April, A. D. 1860, "hear the testimony and examine
438 the papers in certain contested land claims near Fort Vancouver, including the mission claim," the undersigned Roman Catholic bishop of Nesqually hereby gives notice of the claim of the Roman Catholic mission, of St. James, to six hundred and forty acres of land in the present county of Clarke and Territory of Washington, and respectfully submits the following statement of the origin establishment and progress of said mission:

On the eighth day of June, in the year A. D. 1835, the Roman Catholic bishop of Juliopolis, who was then vicar general of Red river, and acting under the Roman Catholic bishop of Quebec, in Canada, addressed an official communication "to all the families established on the Wallamette river and other Catholic persons beyond the Rocky mountains," in which he acknowledged to have received from them two petitions, one dated July 3rd, A. D. 1834, the other February 23rd, A. D. 1835, that missionaries be sent out to instruct them and their children and promised to exert himself to meet their requirements. In the same communication the bishop declared his intentions to send missionaries amongst the numerous Indian tribes inhabiting the country of the petitioners. This letter or address was dated at St. Boniface, in the Red River settlement, then a portion of the Hudson's Bay Company's possessions.

The signers of the two applications to the bishop were "free" men, some, if not all, of whom formerly had been in the
439 service of the Hudson Bay Company in Oregon, but having been discharged by the expiration of their stipulated term of service had settled upon lands in that vast country then known as the Columbia country or "Oregon."

At that period Oregon was within the diocese of the Roman Catholic bishop of Quebec, and thus it continued for several years.

The Hudson Bay Company then, and long subsequent thereto, had trading posts or establishments at different points in the country to the west of the Rocky mountains.

The company was wealthy and all-powerful throughout "Oregon." It possessed almost unlimited influence with the Indian tribes, and whosoever it countenanced found great favor with the Indians.

About the year A. D. 1835 the bishop of Juliopolis made application to the Hudson Bay Company for passage in the company's brigade for two Catholic priests from Canada to Oregon, and desired the consent of the company to the establishment by these priests of a mission on the Willamette river, in the now State of Oregon.

The passage for the priests was secured, but the company would

not grant permission for them to found a mission station south of the Columbia river, and afterwards objections were interposed to the fulfillment of the promise to allow Catholic missionaries to enter "Oregon."

440 On the 13th of October, A. D. 1837, the bishop of Juliopolis again applied to the Hudson Bay Company for the privilege to send and passage for two priests to the Columbia river region.

On the 17th of February, A. D. 1938, the present Sir Geo. Simpson, in behalf of the Hudson Bay Company, addressed to the Catholic bishop of Quebec a letter intimating that a passage to Oregon would be afforded for two priests, and that, "on their arrival at Fort Vancouver, measures would be taken by the company's representatives there to facilitate the establishing the mission and the carrying into effect the objects thereof generally."

In consequence of such permission, the Catholic bishop of Quebec, in the spring of A. D. 1838, designated and sent two Catholic priests, the Rev'd F. N. Blanchet, now archbishop of Oregon City, and the Rev. Modeste Demers, now bishop of Vancouver's island, "to that part of the diocese of Quebec which is situated between the Pacific ocean and the Rocky mountains."

These priests received from the bishop of Quebec instructions to consider, as the first object of their mission, the drawing out from barbarity and disorders the Indian or savage nations of the country to which they were commissioned.

At the time the Rev'd Mr. Blanchet was appointed vicar general of Oregon.

On the 24th of November, A. D. 1838, Rev'd Messrs. Blanchet and Demers arrived at Fort Vancouver and immediately

441 entered upon the labors to which they had been deputed. Such was the inception of the Catholic mission station at Vancouver.

It was intended by the bishop of Quebec that the first Catholic mission station in Oregon should be established on the Cowlitz river, but after arrival in the country the vicar general, Rev. Mr. Blanchet, deemed it expedient opperations by the establishment of the first station at Vancouver, and this was done.

From the date of arrival at Vancouver (Nov. 24th, 1838) Mr. Blanchet there remained until January next ensuing, while Rev. Father Demers continuously prosecuted his mission duties at the same station until in April, A. D. 1839.

From the 23rd of April, 1839, to some time in the year A. D. 1844, Rev'd Father Demers came several times each year from other fields of labor to attend the mission station at Vancouver.

In January, A. D. 1839, Rev. Mr. Blanchet, the vicar general, visited the Wallamette, or Willamette, in the now State of Oregon, and in the autumn of that year established the Mission of St. Paul, in the Willamette.

In April or May of the same season he founded a mission station on the Cowlitz, occasionally visiting and fulfilling the duties of missionary priest at the Vancouver station, and this he continued until the fall

of A. D. 1842, when two more Catholic priests arrived in "Oregon."
These latter were the Rev'd Messrs. Langlois and Balduc,
442 who came via Cape Horn and the Sandwich island- instead of across the continent. The H. Bay Company, in some parts of the year A. D. 1841–'2, evinced a decided unwillingness to an increase of Catholic missionaries and mission stations to the westward of the Rocky, or Stony, mountains.

On the 15th April, A. D. 1841, Sir Geo. Simpson, of the H. B. Company, communicated to the bishop of Quebec that he should soon pay a visit to "Oregon" and would report — the Hudson's Bay Company upon the condition and beneficial effect of the presence of Catholic priests in that country and the establishment of mission stations therein, and after making such visit the said Sir Geo. Simpson did report to the company favorably to the Catholic mission in Oregon, since when and until after the passage of the act of Congress approved August 14th, A. D. 1848, establishing the territorial government of Oregon, the Hudson Bay Company in different ways manifested an interest in the prosperity of the Catholic missionary enterprise in Oregon.

As a result of the visit and observation of Sir Geo. Simpson to the country, Dr. John McLaughlin, the chief officer of the H. B. Co., in Oregon, notified Rev. Mr. Blanchet, the vicar general, that he had been instructed to place £100 (one hundred pounds sterling) to the credit of the Oregon Catholic mission as an acknowledgement of the eminent services he and his colleague (Rev. Mr. Demers) "are rendering the people of this part of the country."

This amount was allowed by the H. B. Co. for several
443 years thereafter and the same was accounted for to the former vicar general, but present archbishop of Oregon City, Rev. Mr. Blanchet. This said sum of one hundred pounds per annum was not allowed, credited, or paid by reason of any contract or agreement with the H. B. Co. and the missionaries or any of them, but was given and received as a gift or subscription for the support of Catholic mission station in Oregon.

Soon after the advent of the two new priests in A. D. 1842, as hereinbefore stated, Rev. Mr. Blanchet assumed the discharge of the missionary duties at the mission station at Vancouver, and devoted the major part of his time to the same until the latter part of July, A. D. 1844, when Rev. Mr. Demers replaced him, who continued in charge until the nineteenth of September following.

From the last-mentioned date until the close of June, A. D. 1845, Rev. J. P. Nobili, S. J., was continuously in charge of the mission station.

Father Nobili was relieved by Rev. Father De Vas, who performed the obligations attached to the position until some time in May, A. D. 1847, and from thenceforward the same were administered by Rev. Messrs. Joset and Demers to the appointment, in October, A. D. 1847, of Rev. Father Delevand, who remained in charge of the mission station until succeeded therein by Rev. J. B. A. Bronillet in November, A. D. 1850, who since then until the present has been the missionary priest of the said Mission of St. James.

At the time Rev. Mr. Bronillet entered upon the performance of the duties *on* missionary as aforesaid at this station
444 the undersigned then, since, and now the Catholic bishop of Nesqually made his residence at said mission, and has since here continued to have his residence in the discharge of his functions as bishop — said diocese.

At different dates and for various periods of time other Catholic priests occasionally have ministered at this mission station, among whom were Rev. Father- De Smet and Accolli, the Rev. Messrs. Rossi, McCormick, Quinn, King, Bayard, Mesplie, Rossean, and La Bas.

From the establishment of the mission station until the 31st of May, A. D. 1846, religious services were generally conducted in a small building within the pickets of the H. B. Co. at Fort Vancouver.

Some time about the year 1843–'4 the H. B. Co. or some of its officers commenced the construction of a small church edifice for the mission, which was solemnly blessed and dedicated to the service and worship of the Roman Catholic church on the 31st day of May, A. D. 1846, by Rev. Father De Vas, who was the priest at that time in charge of the station. The dedication was "under the auspices of the Holy Name of Mary and the patronage of the Apostle St. James the Greater."

From this the mission station derived its name *on* title of the Mission of St. James, "by which it has since been known."

At the dedication James Douglas, then chief factor and officer of the Hudson Bay Co. at Vancouver, was present, and
445 himself signed his name as one of the witnesses to the dedication of the church edifice to the uses and services of the Catholic church.

Since said dedication the mission has continuously and undisputedly and still does continue to occupy said church edifice.

The mission station of St. James was in actual existence on the 14th day of August, A. D. 1848, and on that day the sacrament of marriage was administered in the church by a priest of the Catholic church.

At the expense of the mission the church edifice was repaired and improved in the years A. D. 1851, 1852, and 1854, and in the year A. D. 1856 it was extended and enlarged.

Within the enclosures of the present establishment is a boarding and day school for boys; also a boarding and day school for girls under the management of Sisters of Charity; an orphan asylum and a hospital for the reception and relief of the sick and unfortunate.

This mission station was established in the country of the Klickatat tribe of Indians.

At the time of its foundation and for long afterwards theis place was the resort of Indians belonging to other tribes attracted here by Ft. Vancouver, being west of the Rocky mountains, the headquarters of the Hudson Bay Company.

Numerous Indians and half-breeds have been attended
446 and instructed at this mission station. Many Indians have been baptized, confirmed, married, and received Christian burial according to the *rights* of the Catholic church. Prior to the 14th of August, A. D. 1848, more than four hundred Indians had received the rite of baptism at this station.

The mission was established and has been sustained by monies and assistance contributed by the bishop of Quebec, the bishop of Juliopolis or Red river; the Society for the Propagation of the Faith at Lyons in Europe; the Society for the Propagationof the Faith at Quebec; by voluntary subscriptions and contributions; by tithes paid by Catholic settlers in "Oregon," and by an annual gratuity or contribution of £100 from the Hudson Bay Company, which last-mentioned item was paid to the "Oregon mission," and has been ever accounted for to the Rev. Mr. Blanchet, now archbishop of Oregon.

Since the autumn of the year A. D. 1844 the Rev. F. N. Blanchet has not been stationed at this mission station. In the year A. D. 1846 he was made archbishop of Oregon City, and his diocese did not include any portion of Oregon to the north of the Columbia river, although a part thereof was attached to his diocese until the undersigned, A. M. A. Blanchet, was appointed bishop of Nesqually in the year A. D. 1850, since when the Mission of St. James has been and now is within his jurisdiction as said bishop.

447 The undersigned bases the claim of the Mission of St. James to six hundred and forty acres of land upon the second proviso of the first section of the act of Congress establishing the territorial government of Oregon, approved August 14th, A. D. 1848, and claims that said land is and shall be bounded and described as the survey thereof made by Van Vleet, a depur*t*. U .S. surveyor, and now on file in your office.

A. M. A. BLANCHET,
Bishop of Nesqually.

W. H. FARRAR, *Att'y, &c.*

(Endorsed:) (17.) St. James mission. Declaration filed by A. M. A. Blanchet, bishop of Nesqually, by his attorney, W. H. Farrar.

G. 19262.

In the matter of the contested land claim at Vancouver, W. T'y, before Surveyor General Tilton.

The Deposition of Francis N. Blanchet, a Witness Called on Behalf of the Roman Catholic Mission of St. James.

FRANCIS N. BLANCHET, having first been duly sworn by Sur. Gen'l Tilton, deposes and says as follows:

Questions by Mr. FARRAR:

Int'y 1. What is your name, age, occupation, and where do you reside?

Ans. Francis N. Blanchet; age, sixty-four years; am Catholic archbishop of Oregon City, and reside at Oregon City, in the State of Oregon.

448 Int'y 2. Do you or not know who was the Catholic bishop at Juliopolis, at Red river, in the year A. D. 1835?

—. Yes, sir; it was I. N. Provoncher.

Int'y 3. Are you or not acquainted with the handwriting of said Catholic bishop?

Ans. I am.

Int'y 4. Examine the letter now handed you, and answer if it is in the handwriting and signed by said bishop of Juliopolis.

Ans. This letter was written and signed by the said Catholic bishop of Juliopolis. (See Exhibit A referred to in this deposition of Archbishop Blanchet. Its admission objected to by Mr. Holbrook. Exhibit filed.)

Int'y 5. Examine the paper now handed you, marked Exhibit "B," and answer if you know whose handwriting it is and by whom signed; and, if yea, state whose writing and signature it is.

Ans. This letter was written and signed by the bishop of Juliopolis. It is, like the other, his genuine signature. (See Exhibit "B." Introduction objected to — Mr. Holbrook. Exhibit filed.)

Int'y 6. Were you or not acquainted with the handwriting and signature of Joseph Signaye, who was the Catholic bishop of Quebec, in Canada, in the year A. D. 1838?

Ans. Yes, sir.

Int'y 7. Examine the paper now handed you, and answer if you know by whom it was signed. (Exhibit "C.")

Ans. Know the signature; it is the genuine signature of the Catholic bishop of Quebec in 1838. (See Exhibit "C" filed with

449 this deposition. Objected to by Mr. Holbrook.)

Int'y 8. When did you first come to Oregon and in what capacity?

Ans. I came to Oregon Nov. 24, A. D. 1838. I arrived at Vancouver at that time. I came as the Catholic vicar general of the bishop of Quebec.

Int'y 9. Was you then a Catholic priest?

Ans. Yes, sir.

Int'y 10. State whether or not any other Catholic priest came then to Oregon with you; and, if yea, who was he and where is he now?

Ans. The Rev. M. Demers came with me as a priest. He is now bishop of Vancouver's island.

Int'y 11. State whether or not any written instructions by the bishop of Quebec were given you and by you brought to Oregon in 1838.

(Objected to by Holbrook.)

Ans. There were written instructions given us by the bishop of Quebec, and we brought them to Oregon.

Int'y 12. State whether or not these (Exhibit "C") are the original instructions given you by the bishop of Quebec.

(Objected to by Mr. Holbrook.)

Ans. These (Exhibit "C") are the instructions signed by the bishop of Quebec and by him given to us upon leaving for Oregon as missionaries to that country.

Int'y 13. Upon what business or for what purpose did you come to Oregon in 1838?

Ans. To attend to the establishment of religious missions in Oregon.

Int'y 14. State whether or not yourself and Rev. M. Demers
450 did establish in Oregon any religious mission or stations after your arrival here.

Ans. Yes, sir; we did.

Int'y 14½. State whether or not you established a Catholic mission station at Vancouver; and, if so, when.

(Objected to by Holbreek.)

Ans. We did and in the year 1838.

Int'y 15. State whether or not you established any other Catholic mission station or stations in Oregon before the fall of 1844.

Ans. We did, one in Cowlitz and one in the Willamette, and visited many other places. We visited Nesqually, Whidbey's island, Colville, and many other places. At Whidbey's island we had a building and in New Caledonia, too.

Int'y 16. When you established the mission station at Vancouver, in 1838, state whether or not there were many Indians at and near Vancouver.

Ans. There were many Indians in the neighborhood. Some belonged to the place and some came from afar.

Int'y 17. Down to what time did you remain and act as vicar general in Oregon for the bishop of Quebec?

Ans. Until I was appointed a bishop, in A. D. 1843.

Int'y 18. State what was your name or title or official designation as bishop in 1843.

Ans. I was appointed bishop of Philadelphia *in partibus*. The title was changed to that of bishop of Drasa. I do not now
451 recollect when the name or title was changed. I did not hear of my appointment as bishop until the fall of 1844.

Int'y 19. From the time you came to Vancouver, in 1838, to the time you received intelligence, in 1844, of your appointment as bishop where and how did you use the time—how were you engaged?

Ans. We were engaged in missionary labor at Vancouver, Cowlitz, Willamette, Puget sound, Whidbey's island, the upper Columbia river, as well as the lower part, and at Clackamas.

Int'y 20. With or among what people did you render such missionary labors during that time?

Ans. Among the Indians and whites.

Int'y 21. During that time did you do any missionary work or labor amongst the Indians at Vancouver?

Ans. Yes, sir; we did a great deal.

Int'y 22. State the character of that missionary work amongst the Indians at Vancouver.

Ans. We taught them the *ch*atechisms, prayers, and Catholic doctrines; we baptized and married, administered to them at the moment of death, and buried Indians with Christian burial.

Int'y 23. State whether or not communion was administered to any Indians at Vancouver.

Ans. I have no certain recollection; it might have been to Indian wives of whites.

Int'y 24. State whether or not Indian men, women, and children were taught and instructed by you at Vancouver.

Ans. Yes, sir; many times when I was here I was giving
452 instructions to Indian men, women, and children. This was also — given to Indian wives of whites, but to all other Indians who came to hear us.

Int'y 25. From the time of the establishment of the missionary station at Vancouver, in 1838, to the fall of 1844 was said station kept up or maintained amongst the Indians?

Ans. Yes, sir; most generally.

Int'y 26. When you say the mission station was kept up "most generally," please state what we are to understand by the words "most generally."

Ans. I mean that, there being in the beginning but two priests in Oregon, we were necessarily absent from Vancouver at times, but that would not be long at a time; but in 1842 there arrived two other priests; then we dedicated more time to Vancouver—to that station.

Int'y 27. State the names of the priests who arrived in 1842.

Ans. The Rev. Father Langlois and the Rev. Father Bolduc.

Int'y 28. Where are those priests now?

Ans. Both returned to Canada.

Int'y 29. When did they leave Oregon?

Ans. To the best of my recollection Mr. Langlois left Oregon for California in 1849 and Mr. Bolduc left for Canada in 1850 or 1852 or thereabouts.

Int'y 30. When did you last hear where they were?

Ans. Some time — 1859 I saw them both in Canada.

Int'y 31. Before the fall of 1844 did any other Catholic priests come to Oregon?

453 Ans. Yes, sir; Father De Smet and some of his colleagues, and established a mission among the Flathead Indians and other missions in the Rocky mountains.

Int'y 32. State whether or not you left Oregon in the fall of 1844; and, if so, how long were you absent.

Ans. I left Oregon in Dec., 1844, for Europe, and returned here in Aug., 1847.

Int'y 33. At the time of your leaving in Dec., 1844, was the mission station at Vancouver in existance or not, and if in existence and operation what priest was in charge?

Ans. It was in existence and under the charge of Father Demers. I think he was here.

Int'y 34. From 1838 to the time you left Oregon in 1844 where were religious services held at Vancouver?

Ans. In an old store inside the pickets.

Int'y 35. Was that room or building during that time used for any other then religious and missionary services and labors?

Ans. It was used only for Catholic religious services and missionary labors.

Int'y 35½. State who attended services then in that building.

Ans. Servants of the Hudson Bay Company, their wives and children, Indians of the place and neighborhood—Dr. McLaughlin often came—and others.

Int'y 36. Before 1844 had you purchased or obtained any place or building at Vancouver outside of the pickets or fort of the H. B. Co. for any purpose whatsoever?

454 Ans. I had not purchased, but had obtained a piece of ground that was intended for the building of a church for this station. The Co. was not willing to sell; that piece of ground was shown to me from the saw-mill west and including the present site. We were allowed to fence it, but our means did not allow us to do so. This land was east of the present Catholic church and near an old mill or mills, and extended thence west, but I do not well recollect now how far west it came. I think the church now stands on this land. Before I left for Europe I recommended Rev. M. Demers to build a church on that land.

Int'y 37. By whom was this land shown to you?

Ans. To the best of my recollection it was by James Douglas, Esq., chief factor of the Co. and governor of the F. V. in absence of Dr. McLaughlin.

Int'y 38. Did you or not before leaving Oregon in 1844 purchase any building at Vancouver?

Ans. Yes; I did from one of the Co.'s servants.

Int'y 39. What building and for what purpose?

Ans. For the purpose of teaching Indians and the Indian women and children of the Co.'s servants outside the fort.

Int'y 40. State whether or not you used that building as a place for the instruction of the Indians at Vancouver and in its vicinity.

Ans. Yes; we did.

Int'y 41. When did you buy that building?

Ans. I think in 1839 or 1840.

Int'y 42. Was it in use by you for the same purpose up to the time you left Oregon in 1844?

455 Ans. That I can't say; I suppose it was.

Int'y 43. On your return to Vancouver in 1847 in what condition did you find this mission station, and who was, if any one, in charge as the missionary priest?

Ans. I found the mission station in charge of Vicar General Demers.

Int'y 44. Where were the religious services then held?

Ans. In the present church building.

Int'y 45. Since then do you know whether any repairs or improve-

ments have been made upon this building; and, if yea, by whom and when?

Ans. I have been told that some repairs have been made; of my own knowledge I know repairs have made of late years. These repairs have all been at the expense of the bishop of Nesqually.

Int'y 46. State whether or not there was a Catholic mission station at Vancouver amongst the Indian tribes on the 14th day of Aug., 1848.

Ans. There was; Father Delavane was the head of the station. He was appointed to this station in 1847 by me after my arrival from Europe. This part of the country was not a part of my diocese, but it was under my jurisdiction.

Int'y 47. Was it the same missionary station you had founded in 1838?

Ans. It was the same.

Int'y 48. Whether or not there has been a Catholic church and service here since then until now.

Ans. Yes, sir.

456 Int'y 49. At what time did you come to exercise jurisdiction over the part of the country which includes Vancouver?

Ans. In the year 1850, when the bishop of Walla Walla was appointed bishop of Nesqually and came here and took possession of the place.

Int'y 50. State the full name of the bishop of Nesqually.

Ans. A. M. A. Blanchet.

Int'y 51. You have stated that you gave this mission station in charge of Father Delavand in 1847. State how long he continued in charge thereof.

Ans. He continued in charge until the fall of 1850; he was here all that time.

Int'y 52. State how the Oregon Catholic mission was sustained from the first, or supported.

(Objt. to.)

Ans. By the Society of the Propogation of the Faith of Quebec; by a like society at Paris, in France; by subscriptions of the servants of the H. B. Co., made yearly since 1842; by the products of our farm at St. Paul and the Cowlitz, and by donations from other persons.

Int'y 53. State whether or not you or any other Catholic priest were ever in the service of the H. B. Co., in Oregon, as chaplains or in any other capacity.

(That part of the question as to other Catholic priests objected to by Mr. Holbrook.)

Ans. Never.

Int'y 54. State whether you or any other Catholic missionary priest ever had any contract or agreement with the H. B. Co.

457 to act as chaplains at Vancouver.

(Same objection as above.)

Ans. Never.

Int'y 55. Were you ever or was any Catholic missionary priest in Oregon a chaplain to the H. B. Co. at Fort Vancouver or elsewhere in Oregon?

(Same objection as above.)

Ans. No, sir; never.

Int'y 56. From the time of your arrival, in 1838, to the fall of 1850 have you or not been at the head of the Catholic missionaries and priests in Oregon?

Ans. Yes, sir; with the exception of those in the diocese of Walla Walla.

Int'y 57. Was Vancouver a part of the diocese of Walla Walla at any time?

Ans. No, sir.

Int'y 58. Did you ever know or hear of any Catholic priest being a chaplain of the H. B. Co. at Vancouver from 1838 to the fall of 1850 or at any time between those dates?

Ans. No, sir; never.

Int'y 59. State, if you know, who succeeded Rev. Mr. Delavand at Vancouver in 1850.

Ans. The bishop of Walla Walla had been appointed bishop of Nesqually and came here; took possession of the place. I understand Rev. Father Bronillet took the place of Father Delavand.

Int'y 60. Do you or not know who is the Catholic priest now in charge?

458 Ans. It is the Very Rev. I. B. Bronillet.

Int'y 61. Where is Rev. Mr. Delevand now, if you know?

Ans. I cannot say where he is. When he left here he went to California and from thence to Mexico.

Int'y 62. When did he go to Mexico?

Ans. He left Oregon, I think, in 1851.

Int'y 63. Do you or not know where he may be found?

Ans. No, sir.

Int'y 64. How long is it since you last heard from him?

Ans. In the fall of 1852. I then heard he had gone to Mexico.

Int'y 65. Examine the statement of account now handed you and answer if it was rendered to you as a statement of the account of Catholic mission in Oregon with the Hudson Bay Co. (It is paper a part of the writing of which was sworn to by A. McKinley, as written by McTavish.)

(Questions objected to by Mr. Holbrook.)

Ans. Yes, sir (see Exhibit "D"); it is one of the recapit-ation of our accounts with the H. B. Co.

Int'y 66. What is the meaning of these words and figures in this Exhibit "D:" "By amount allowed the mission by the H. B. Company, £100"?

Ans. It means an allowance yearly granted by the Hudson B. Co. for acknowledgement of our services rendered to the country since 1842.

Int'y 67. Was it or not paid or allowed for the use and benefit of the Oregon Catholic mission or for any one station of that mission?

459 Ans. By the tenor of the note or letter sent to me by Dr. McLaughlin it appears that it was for the mission in general.

Int'y 68. State, if you know, where that letter from Dr. McLaughlin is.

Ans. That letter is lost, but I had a copy of it in my register made by me before it was lost. This letter contains copies of all important papers and letters relating to my diocese.

Int'y 69. Examine the papers now handed you and answer if the signature thereto is yours and signed by you.

Ans. It is (marked Exhibit "E").

Int'y 70. Examine Exhibit "E" and answer if you find what purports to be a copy of that last letter from Dr. McLaughlin to you, and state whether or not it is a true and full copy of said original letter from Dr. McLaughlin.

Ans. It is.

Int'y 71. Was that sum of one hundred pounds per year ever paid to any priest or person than yourself?

Ans. Only to myself as chief of the mission and used for the whole Oregon mission.

Int'y 72. From the time of your coming to the country in '38 to the fall of 1844 where did you live when at Vancouver?

Ans. Inside of the pickets in a room of the H. B. Co.

Int'y 73. State whether or not you ever paid to the Co. anything for your board.

460 Ans. Never.

Int'y 74. State whether or not you ever offered to pay them for your board.

Ans. Yes, sir; when I had bought that little house we were afraid to be too much charge to the Co. I told the governor we would live outside and pay the expense of our living. The answer made was that we were not a burden to the H. B. Co. I said we were afraid we were troublesome to the Co. The answer was as I have above stated. The Co. or its officers were very kind and generous to us.

Int'y 75. Were you or not the bishop of "Drasa" in the year 1846?

Ans. I was. I was appointed archbishop of Oregon City that same year in July. I think I first knew of my appointment as such archbishop some weeks after.

Int'y 76. At any time since the building of the present church edifice has the H. B. Co. ever made to you any pretention or claim of right or ownership to the same?

Ans. No, sir; never.

Cross-examination by A. HOLBROOK:

Int. 1. When did you first know of the claim made to the land at Vancouver as a mission station?

Ans. I can't say exactly. I knew it was not to be claimed as long as the Hudson Bay Co. was in possession of it.

Int. 2. In 1848 was the mission in possession of any land?

Ans. It was in possession of the land where the church is.

Int. 3. From what source did it get that land?

Ans. From Mr. Douglas, who showed me the place. This
461 was done at my request, that we might have a more established place.

Int. 4. Did the mission ever acquire any right to that land except by the consent or permission of Mr. Douglas?

(Objected to by Mr. Farrar.)

Ans. No; it did not; there was *there was* no other way.

Int. 5. Has the mission ever claimed to exercise ownership over any part of the land except that on which the church is built?

Ans. No; we did not, except what was granted for the church, and we expected to have a deed for the land from the Hudson Bay Co. when the Co. could give one.

Int. 6. In 1848 where did Mr. Delevand reside?

Ans. Inside of the pickets of the H. Bay Co.

Int. 7. Where in 1849 and till he left?

Ans. In the same place.

Int. 8. Did you or any other priest before 1850 live anywhere about Vancouver except within the Co.'s pickets?

Ans. No, sir.

Int. 9. From whom did you buy the small house spoken of by you in your testimony?

Ans. I don't recollect the name.

Int. 10. Where was it?

Ans. West of the fort.

Int. 11. Did not the company own all the buildings occupied by its servants?

Ans. I think not. They belonged to the servants and they sold them.

Int. 12. Did you buy any land with the house?

462 Ans. No, sir.

Int. 13. Did you buy anything but the use of the house?

Ans. I bought the house.

Int. 14. Did the company know you bought it?

Ans. I suppose they did.

Int. 15. How much did you give for it?

Ans. Between twenty and twenty-five dollars.

Int. 16. Who erected the church?

Ans. The Hudson's Bay Company or Mr. Douglas.

Int. 17. Did you ever pay anything for its erection?

Ans. No, sir.

Int. 18. What expense was ever incurred for the establishment of the mission before 1848—in Aug. of that year?

Ans. None was ever incurred for the church or the support of priests or fuel by any one except the H. B. Co. The mission provided church furniture for service, but nothing else.

Int. 19. Do you not know that the H. B. Co. leased part of the church buildings in 1849 or 1850 to Lieut. Denman?

Ans. I heard there was a little house outside leased that way.

Int. 20. Was not that house claimed as part of the church or mission property?

Ans. It was attached to the church and was built for the lodging of the priest. Not being finished, Father Delevand could not have his lodging in it.

Int. 21. Who owned it in 1850?

Ans. I can't say, as I was not here before the bishop of Nesqually arrived.

463 Int. 22. Who owned it in 1848?

Ans. I cannot say.

Int. 23. Who built it?

Ans. Mr. Douglas, chief factor of H. B. Co., at the time he built the church.

Int. 24. Can you tell when you first heard of the intention of the bishop of Nisqually to claim this as a mission station?

Ans. I can't say. I was gone from 1855 to 1857, and don't recollect that I heard of it before I left.

Int. 25. Was there not a mission at Oregon City in 1848, as much as at Vancouver, or even more so?

(Objected to by Mr. Farrar.)

Ans. Yes; we had a mission there—a station; we had a church and property in lots.

Int. 26. Do you know of the mission at Vancouver ever pretending to own any land except what was pointed out to you by Mr. Douglas as a place to build your church?

Ans. I do not. I have already answered so.

Questions by the SURVEYOR GENERAL:

Int. 1. In what language were the Indians taught or instructed here?

Ans. In the Chinook and in the French—some of the women who knew the French were.

Question by Mr. FARRAR:

Int. 1. When you stated to Mr. Holbrook that the mission has never claimed to exercise ownership over any part of the land
464 except that on which the church is built, did you or not mean to be understood that since the bishop of Nesqually has been here that he has not claimed the ownership of the land *of the land* for the mission?

Ans. No, sir; I only spoke of the time when I had jurisdiction over this side.

Int. 2. Did you and other priests ever teach or instruct the Indians or any of them in their native language?

Ans. We did not in this place, we did in Caledonia and some other places.

Int. 3. Did you and other priests ever give religious instructions to the Indians here in what is called the "jargon"?

Ans. Yes, sir.

Int. 4. Was or not the "jargon" the common language in which all intercourse between the whites and Indians was conducted?

Ans. It was.

Int. 5. Did the H. B. Co. furnish or provide the books, catechisms, vestments for the church and priests, or any other matter or thing of the kind for this station?

Ans. No, sir; all these were provided for by the mission and at its cost. I mean by one means the Oregon mission.

Int. 6. From 1838 to Aug., 1848, were any presents of any kind ever made by you or any of the priests to the Indians at Vancouver?

Ans. Yes, sir, from time to time.

Int. 7. Who bought or paid for those presents?

Ans. They were bought and paid for by us; we bought
464½ them of the H. B. Co. The account for them was to and with the Oregon mission.

X F. N. BLANCHET,
Archbishop of Oregon City.

EXHIBIT "A," Referred to in Archb'p Blanchet's Deposition.

465 (Translation.)

SIR: I have received last winter and this spring a petition from certain free families, established on the river Willamette, requesting the help of missionaries to instruct their children and themselves. My intention is to use all my efforts to procure their request as soon as I can. I have no priests at my disposal at Red river, but I will make a trip to Europe this year. I intend to make it my business to procure these free people and the Indians afterwards the means of knowing God. I send together with this an answer to the petition I have received. I request that you please forward it to them. I join with it some catechisms which might be useful to those people if anybody can read among them. Those persons say they are protected by you. Please induce them to do their best and to deserve by a good behavior to profit by the favor they ask. I have the honor to be, sir,

Your most humble ob't serv't, X I. N.,
Bishop of Juliopolis.

6 June, 1835—Red river.

I. I. B. A. Bronillet, do hereby certify that the foregoing is a full and correct translation into English of the original letter, which is in French, written and signed by the bishop of Juliopolis.

I. B. A. BRONILLET.

466 TERRITORY OF WASHINGTON, } *ss:*
Clarke County, }

I, B. A. Bronillet, first being duly sworn, deposes and says that the foregoing translation into English of the original letter of the

bishop of Juliopolis, written in French, and hereunto annexed, was *amde* by affiant, and that said translation is full and correct.

I. B. A. BRONILLET.

Sworn to before me at Vancouver, W. T., May 2nd, 1860.

JAMES TILTON,
Sur. Gen'l, W. T.

(Endorsed:) Letter of the Catholic bishop of Juliopolis or Red river to Dr. McLaughlin, of the Hudson Bay Co., June 6, 1835.

Exhibit "A," referred to in deposition of Archbishop Blanchet. May 2nd, 1860, Vancouver, W. T. J. Tilton, sur. gen., W. T.

(EXHIBIT "B," Proven by Archbishop Blanchet's Deposition.)

467 (Translation.)

To all the families established on the Wallamette river and other Catholic persons beyond the Rocky mountains, greeting and benediction:

I have received, my dearest brethren, your two petitions, the one dated 3rd July, 1834, and the other 23rd February, 1835. Both ask for missionaries to teach you and your children. Such a request from people deprived of all religious help could not fail to touch my heart. Indeed, if I had it in my power I would send you some even this year, but I have no priests at my disposal at Red river. I must get some from Canada or elsewhere, which requires time. I will give it my attention during a trip I am going to make in Canada and Europe this year. If my efforts are successful I will send you help very soon. My intention is not only to procure to you and your children the knowledge of God, but also the numerous Indian tribes among which you live. I exhort you meanwhile to deserve, by a good behavior, that God may help my undertaking. Raise your children the best you can. Teach them what you know of religion, but remember, my dear brethren, that the proper means that your children and wives take some notion of God and of the religion which you profess is to give them a good example by a life moderate and exempt of the great disorders which exist among many of the Christians beyond the mountains. What idea do you give of God and of the holy religion which you profess to the Indians, especially, who see in you who are calling yourselves the servants of that great God disorders which equal and perhaps surpass their own. You create thereby in their minds prejudices
468 against a holy religion which you profess. When we will preach them that same religion which condemns every crime the Indians will object — the evil conduct of those who profess it to authorize themselves not to embrace it. As soon therefore as you learn by this letter that probably you will soon have among you priests whom you seem to ask earnestly, renounce committing sins, commence leading a life more in accordance with your belief, in order that, when the missionaries will arrave among you, they may

find you disposed to profit by the instructions and other religious help which they will bring to you.

I wish that God may touch your hearts and change them. The greatest consolation for me would be to learn afterwards, that as soon as this letter has been read to you, you have commenced to pay a little more attention to the affair of your salvation.

Given at St. Bonifice, at Red river, on the 8th of June, 1835.

X J. N.,
Bishop of Juliopolis.

TERRITORY OF WASHINGTON, } ss:
Clarke County, }

I. B. A. Bronillet, first being duly sworn, deposes and says that the foregoing is a full and correct translation into English of the original letter, which is in French and hereto annexed, written and signed by the bishop of Juliopolis.

I. B. A. BRONILLET.

469 Sworn to before me at Vancouver, W. T., this 2nd of May, 1860.

J. TILTON,
Sur. Gen., W. T.

(Endorsed:) Letter of the Catholic bishop of Juliopolis or Red River to the Catholic families of the Willamette, in Oregon, June 8, 1835.

Exhibit "B" referred to in deposition of Archbishop Blanchet May 2nd, 1860. J. Tilton, sur. gen., W. T. Vancouver, W. T., May 2nd, 1860.

EXHIBIT "C," Referred to in Deposition of Archbishop F. N. Blanchet.

470 Instructions for Messrs. Francis Norbert Blanchet & Modeste Demers, priests, appointed missionaries for that portion of the diocese of Quebec which is situate between the Pacific ocean and the Rocky mountains:

1. They must consider as the first object of their mission to draw from barbarity and the disorders which follow from it the Indian nations spread in that country.

2nd. The second object is to lend their services to the bad Christians who have there adopted the morals of the Indians and live in licensciousness and the forgetfulness of their duties.

3rd. Convinced that the preaching of the gospel is the safest means of obtaining these happy results, they will lose no opportunity of inculcating its principles and its maxims either in their private conversations or in their public instructions.

4. In order more promptly to render themselves useful to the nations of the country where they are sent, they will from the first moment of their arrival apply themselves to the study of the Indian languages, and will endeavor to reduce them to regular prin-

ciples so as to be able to publish a grammar of them after some years of residence.

471 5th. They will prepare for baptism with all possible haste the infidel women who live in a s-ate of concubinage with christians, in order to replace those irregular by lawful marriages.

6th. They will apply themselves with a particular care to the christian education of the children establishing for that purpose, as much as their means will afford them, schools and catechisms in all the villages which they will have occasion to visit.

7th. In all the places remarkable either for their position, or the passage of the voyagers or the gatherings of Indians, they will cause high crosses to be planted, as if to take possession of those various places in the name of the Catholic religion.

8th. They will often repeat to the people to whom they are sent how strictly this religion prescribes peace, mildness, and obedience to the laws, as well of the State as of the church and they will not fail to teach them as well by their examples as by *y*heir words, the respect and fidelity which they owe our gracious sovereign, accustoming them to address to God, their prayers for her prosperity and that of her empire.

9th. The territory which is particularly assigned to them is that which is comprised between the Rocky mountains at the east, the Pacific ocean at the west, the Russian possession at the north and the territory of the United States at the south. It is only in

472 that extent of territory that they will establish missions, and it is particularly recommended to them not to form any establishment on the lands the possession whereof is contested by the United States. They will be allowed, however, in conformity with the indult of the Holy See, dated February 28, 1836, a copy of which accompanies the present, to exercise, when needed, the*y*r faculties in the Russian possessions as well as in that part of the American territory which joins their mission. As to that part of the territory, it is probable that it does not belong to any of the dioceses of the United States, but if the missionaries were informed that it is a part of some diocese, they will abstain from exercising any act of jurisdiction then in obedience to the indult cited above unless they be authorized to it by the bishop of such diocese.

10. As to the place where they will fix their principal residence it will be on the river Cowlitz or Kowiltyhe, which empties into the river Columbia on the north side of this last river, on their arrival at Fort Vancouver they will present themselves to the person who then represents the honorable Hudson Bay Company, and they will take his advice as to the precise situation of that establishment.

11. They are particularly recommended to have all possible regard for the members and employees of that company with whom it is very important for the holy work with which they are charged, to be constantly in good intelligence.

473 12. As they cannot rely entirely upon the recourses from the Association for Propogation of the Faith, established a year ago in this diocese, to provide for their sustenance and the construction of the chapels and houses which they will establish in various

places of their mission, they will induce the white inhabitante and the nations of the country to contribute for these objects as much as their means will allow them.

13. They will not fail to give us every year information as to what may interest, delay, or favor the progress of their mission. They will be careful that these details be arranged in such a way that they may be published as well for the education as for the encouragement of the faithful, who, as members of the Association for the Propogation of the Faith, contribute by their alms to the establishment and support of that new mission.

14. The territory where this mission is — be established having been annexed by the indult of the 28th of February, 1836, mentioned above to the Territory of the Northwest, the spiritual government of which is entrusted to the right reverend bishop of Juliopolis, the new missionaries will correspond as regularly as possible with that prelate, whom they will also inform of the state of their mission and whose orders and counsels they will receive with submission and respect.

15. On account of the impossibility which does exist, of
474 transporting beyond the Rocky mountains more than what is strictly necessary of church furniture and vestments, the new mission will find itself at first in great destitution. But the zeal with which the Association for the Propogation of the Faith established at Lyons has assisted our Mission of Canada during these last years, affords the hope that by recur-ing to its beneficence it would be possible to obtain church articles which being sent to England would be transported thence into the new mission by the company's ships which go to the river Columbia. We rec-ommend to the missionaires to ask the bishop of Juliopolis to please engage the acquaintences and friends whom he formed in France, while he remained there, to interest themselves with the association of Lyons in favor of this work.

16. They will be allowed to exercise the powers which are attributed to them in the whole extent of the Northwest Territory, when they will pass there on their way to the river Cowlitz, or on their return to Canada, with the exception that in the presence of the bishop of Juliopolis, they will exercise none without the invitation of his lordship.

17. In our quality of vicar general of the bishop of Kingston, we authorize them to exercise besides the ordinary jurisdiction, the power of arch priests marked at the page 132, of the extract of the ritual, and to marry without publication and *extra missarum sollemmia* in the parts of that diocese, through — they will pass on their way to their destination.

475 Before leaving Montreal they will take care to provide themselves with the same powers from the bishop of that town for the parts of his diocese where they might stop on their way.

18. In the administration of the sacrament of baptism to adults they may use the form prescribed for the baptism of children, in conformity with an indult of the Holy See bearing the same date as

the one mentioned above (28 February 1836) and a copy of which accompanies the present.

19. They are authorized in virtue of an indult of the 23- of June 1838 also joined to the present to apply to beads, arrows, crosses, medals &c., the indulgences mentioned in a small print, two exemplaries of whoch they will find with the copies of indults quoted above.

20. We permit them to announce in whatever chapel it may be of their mission, one of the three plenary indulgences following or all three together, as they will judge fit.

1. The indulgence attached to the Blessed Sacrament during the three days of Shrovetide, or the first Tuesday of July, and two following days, for all the faithful who having confessed their sins and received communion will visit the said chapel on one of those three days.

2. The indulgence attached to the days of All Saints, of All Souls, and of the Sunday in the octave of All Saints for all the faith-
476 ful who will fulfill the conditions prescribed for the preceding.

3. The indulgence of the novena in honor of St. Francis Xavier, commencing on the first Saturday of Lent, upon the condition for the faithful who will desire to participate to this last indulgence that they will accomplish the works prescribed for the first one and that they will besides assist on the day of their communion to the public, reciting of the prayers of the novena. The indulgence for All Saints' day, for All Souls' day, and for the Sunday in the octave of All Saints' day is applicable *per modurn suffrayii* to the souls of purgatory.

21. In case of the death of the head of the mission or of some sickness that would hinder him from the exercise of his functions, what, God forbid, his colleague is authorized to exercise all the powers granted to the first.

Given at Quebec on the 17th of April, 1838.

(Signed) X JOS.,
Bishop of Quebec.

TERRITORY OF WASHINGTON, } ss :
Clarke County, }

I. B. A. Bronillet, being duly sworn, says that the foregoing is a translation into English of the instructions, written in Frence and hereunto annexed, made and given by the Catholic bishop of Quebec, under date of 17 of April, A. D. 1838, to Catholic missionaries to Oregon, and that said translation was made by himself.

I. B. A. BRONILLET.

477 Sworn to before me at Vancouver, W. T., this 2nd of May, 1860.

J. TILTON,
Sur. Gen., W. T.

(Endorsed:) Instructions, R. C. bishop of Quebec to the first Catholic missionaries sent to Oregon, in 1838. Exhibit "C" re-

ferred to in deposition of Archbishop Blanchet. J. Tilton, sur. gen., W. T., May 2nd, 1860, Vancouver, W. T.

Exhibit "D" of Archbishop Blanchet to Deposition.

Recapit-ation Mission Account.

	1845.				Dr.			Cr.		
	To balance due as p'r account handed Mr. Blanchet March, 1844				270	11	4			
	" amount of supplies on the foll face *to* as p'r detailed accounts herewith, viz:									
No.	1.	Wallamette mission	346	8 9						
	2.	Wallamette Falls mission	43	6 10						
	3.	Vancouver mission	8	1 3						
	4.	Payment to Indians, *fu* Indian shop	30	6 8						
					428	3	6			
	16.	New Caledonia mission			13	1				
	5.	Oliver Lapien	22	11 4						
	6.	Felix Langevin	8	6 5						
	7.	Ilofpey Jobin	14	17 8						
	8.	Opernier	18	17 7						
478	9.	Pierrie Groslin	5	4 6						
	10.	Mahoy	10	8 6						
	11.	Nahoms	16	17 4						
	12.	Niho	16	14 9						
	13.	Augustin Garrant	16	8 4						
	14.	Andre St. Martin	7	11 5						
					137	17	10			
	By amount at credit of Cowlitz mission account No. 15							13	1	5
	By amount remitted from Canada by I. A. Lasvegne to the Hudson Bay house, London, for account of the mission							164	7	9
	By amount allowed the mission by the H. B. Company							100		
					837	5	9	277	9	2
	Less cr. column				277	9	2			
	Balance now due				£559	16	7			

E. E.
F. Vancouver, 11th Feb'y, 1845.

Verified by A. M. Kinley as the handwriting of Dugold McFavish, refer-ed to in cross-interro'y No. 11, April 25th, 1860.
J. TILTON, *S. G., W. T.*

(Endorsed:) Exhibit "D" referred to in deposition of Archbishop Blanchet. May 2nd, 1860, Vancouver, W. T. J. Tilton, S. gen., W. T., 1845.

479 *Recapit-ation.*

1.	Wallamette mission	£346 8 9
2.	Wallamette Fall mission	43 6 10
3.	Vancouver mission	8 1 3
	Payment Indian shop, Fort Vancouver	30 6 8

Ex-ibit "E"—affidavit of the Most Reverend Francis Norbert Blanchat, archbishop of Oregon City.
(A dupl-cate of which is on page- 140–153, vol. 3.)

G. 19. 262.

SURVEYOR GENERAL'S OFFICE,
OLYMPIA, W. T., *April* 29, 1863.

I do hereby certify that the within and annexed papers are true, complete, and full copies of all the original papers, depositions, arguments, maps, sketches, &c., produced on the hearing of the cases of claimants to the public lands in said Territory of Washington at or near Vancouver as they are on file in this office; that they have been carefully examined and compared with said originals, and that they include all the testi*lomy* produced in said hearing, as appears by the papers on file in this office.

ANSON G. HENRY,
Sur. Gen'l, W. T.

480 (Endorsed:) Surveyor general certifies that accompanying papers are true and correct copies of the originals on file in his office. Anson G. Henry, sur. gen'l, W. T. The Corporation of the Catholic Bishop of Nesqually, in the Territory of Washington, pl'ff, *vs.* The United States *et al.*, def'ts. In the dist. court of the 2nd jud'l dist. of W. T., at Vancouver. Plaintiff's documentary evidence "C." W. Byron Daniels, referee.

(The end of vol. 4.)

481 CATHOLIC BISHOP OF NESQUALLY
vs.
THE UNITED STATES *et al.*

Referee's Report, Vol. 5.

Plaintiff's documentary evidence D, E, F, G, H, I, J, K, L, M, N, O, P, Q, R.

VANCOUVER, WASHINGTON TERRITORY.
Filed November 12th, 1888.
A. REEVES AYRES, *Clerk*,
By W. N. JOHNSON, *Deputy.*

482 J. M. M.

UNITED STATES OF AMERICA,
DEPARTMENT OF THE INTERIOR,
WASHINGTON, D. C., *March* 31, 1887.

Pursuant to section 882 of the Revised Statutes, I hereby certify that the annexed is a true copy of the original paper on file in this department.

In testimony whereof I have hereunto subscribed my name and caused the seal of the Department of the Interior to be affixed the day and year first above written.

H. L. MULDREW,
Acting Secretary of the Interior.
S. J. I.

[SEAL.]

J. M. M.
B. P.

DEPARTMENT OF JUSTICE,
WASHINGTON, D. C., *January 29th*, 1872.

SIR: I have carefully considered the case presented by the claim of the Roman Catholic Mission of St. James at Vancouver, Washington Territory, for six hundred and forty acres of land, coming up to your office upon appeal from a decision of the Commissioner of the General Land Office of November 10th, 1862, adverse to the said mission, and referred to me by you for my advice. I herewith submit my views upon the several questions of law and fact
483 involved. The society representing the Mission of St. James claims under the act of Congress of August 14th, 1848 (9 Stat., p. 323) and relies upon a proviso to the first section, which is in the following language:

"And provided also that the title to the land, not exceeding six hundred and forty acres, now occupied as missionary stations among the Indians tribes in said Territory, together with all the improvements thereon, be confirmed and established in the several religious societies to which said missionary stations respectively belong."

In support of the claim to six hundred and forty acres of land under this proviso, the following facts are alleged and I think satisfactorily shown in the record of the case.

Some time during the winter of 1834 or spring of 1835, certain "free families" settled on the Willamette river, in the then disputed ground known as Oregon Territory, petitioned the Catholic bishop of Juliopolis at Red river requesting that missionaries might be sent to instruct them and their children. The bishop on the 6th day of June, 1835, in a letter to Dr. J. McLaughlin, one of the chief factor- of the Hudson Bay Company, at Vancouver, replied that he had there no priest at his disposal, but that he was shortly going to Europe and would "endeavor to procure for those free people and the Indians afterwards, the means of knowing God."

484 On the 8th of June, 1835, the bishop in a letter addressed to "all the free families settled on the River Willamette, and other Catholic persons beyond the Rocky mountains," after repeating the information contained in this letter to Dr. McLaughlin said, My intention is not to procure the knowledge of God to you and your children only, but also the numerous Indian tribes among which you live.

In 1838 the Catholic bishop of Quebec, whose diocese included all the land west of the Rocky mountains, claimed by Great Britain, dispatched two priests, Reverend Messrs. F. N. Blanchet and Modeste Demers to that part of the diocese of Quebec, which was situated between the Pacofic ocean and the Rocky mountains. Their instructions were in part as follows: First to consider as their first object, the withdrawal from barbarity and the disorders which produce it, of the Indian nations scattered throughout that country, second, to tender their services to the wicked Christians who had adopted the morals of the Indians in licentiousness among them.

They were also instructed to make their principal residence on the River Cowlitz on the north side of the Columbia river, but that

in regard to the precise location to take the advise of the person representing the Hudson Bay Company at Vancouver. They were also particularly recommended "to have all possible regard for the members and employees of the Hudson Bay Company with whom they are charged to be constantly in good intelligence."

485 Under these instructions from the Bishop of Quebec, Messrs. Blanchet and Demers started for their destination, having been granted free passage in the boats of the company. They arrived at Vancouver on the 24th day of November, 1838.

Immediately upon their arrival they commenced their missionary labors, holding religious services in an old storehouse of the company within the stockade, the Indians and whites being alike indiscriminately admitted, the priests also visiting the natives in their camps for the purpose of instructing them.

Both priests remained at Vancouver until January, 1839, when Mr. Blanchet left to establish a mission in the Willamette settlement; Mr. Demers remained at Vancouver during the winter. In the spring they extended the field of their labors, one of them being always at Vancouver, unless temporarily absent among the tribes. They continued to visit and teach the missions they had established, using and considering Vancouver as their residence, until the fall of 1842, when, new missionaries having arrived from Canada, Mr. Blanchet took charge of Vancouver exclusively. In July, 1844, he was relieved by Mr. Demers, who continued there until the following fall, when he was succeeded by Father Nobili; Mr. Nobili remained in charge until June, 1845, when he was succeeded by Father Davos, who continued until May, 1847; Mr. Demers and Father Joset were temporarily at the station from May to August of that year.

486 On the first of October, 1847, Father Delavand, by the appointment of Blanchet, then bishop of Oregon, took charge and remained until after the passage of the act of 1848.

During all this time these priests devoted themselves to the missionary cause. They preached in the "Chinook jargon," a language understood by both natives and whites. They baptized a large number of Indians and solemnized marriages among them. They appear to have carefully followed the instructions of the bishop, devotingt hemselves first to the redemption of the Indians, and then to the instruction of the whites who were living there, almost all of whom were attaches of the Hudson Bay Company. They lived in the fort, at the expense of the company, which also placed to the credit of the Oregon mission annually the sum of £100. The expenses of the Oregon mission, of which it is claimed Vancouver was a station, were paid by the aid of the Society of the Propogation of the Faith of Quebec, by the aid of a like society in France, by subscriptions of the servants of the Hudson Bay Company, by the products of certain farms belonging to the mission, and by the donations of the Hudson's Bay Company. The mission had a regular account for supplies with the company, and annually the amount of £100 appears to have been placed to the credit of the mission on this account.

Prior to the year 1846 church services were held in an old building belonging to the company within its pickets. In that year James Douglass, chief factor of the company, set apart a piece of
487–488 ground outside the pickets, and caused to be erected thereon a church, which he placed at the disposal of the priests, then at Vancouver, and which was duly dedicated with the forms and ceremonies of the church, in the presence of a large number of the natives, employees of the company and Mr. Douglass himself, who signed the record as one of the witnesses to such dedication. From that time the station has been known by the name of St. James. On the 14th day of August, 1848, the date of the act under which the mission claim, Father Delavand was the representative of the Oregon mission at Vancouver, was living within the fort of the company at its expense, held religious services in the church and preached and taught alike both natives and the employees of the company in the same form and manner and under the same instructions from his superiors as those who had preceded him.

Upon the facts stated substantively above, the mission station at Vancouver now claims under the proviso quoted six hundred and forty acres of land, including improvements thereon. The claim of the mission is opposed by three different interests as follows:

1st. The military authorities in charge of the United States military reserve at Vancouver, a portion of which is covered by the claim of the mission.

The second shows that in 1849 the military authorities then in Oregon, with the consent and at the request of the Hudson Bay Company, established a reserve at Vancouver.

489 For this purpose a written agreement was entered into between Peter Skeen Ogden, on the part of the company, and Rufus Ingalls, on the part of the United States, by which the company agreed to allow the United States to take post there and put up such buildings and occupy such vacant lands as might be necessary.

In consequence of this agreement, troops were stationed at this point. In May, 1850, by order of the gen'l, P. F. Smith, under directions from the War Department, Col. W. W. Loring, U. S. A., declared a reserve of four miles square.

On the 29th of October, 1853, in consequence of the passage of the act of Feb. 14th of that year, the reserve was reduced by order of the War Department to 640 acres.

On this reserve the Government erected vary valuable improvements estimated at from $200,000 to $1,000,000.

2nd. The widow and heirs at law of Amos M. Short, who claims under the act of September 27th, 1850 (9 Stat., 498, sec. 4), six hundred and forty acres of land, partly covered by the claim of the mission.

It is shown that as early as 1844 or 1845 Short made repeated efforts to obtain a permanent settlement on the land now claimed by his widow and heirs; that he was twice driven off by the agents of the Hudson Bay Company and was once ejected under legal process by one Ethenger; that he finally obtained a settlement, which

he maintained until his death, in 1853, and that his family have since his death continuously resided upon the tract.

490 3rd. The citizens of the town of Vancouver, who claim under the town-site act of 1844 (5 Stat., 657) the right to enter a certain tract of land situated between the claim of Short on the west, and the military reservation on the east, and included within the claim of the mission.

It is shown that at an early day, this tract, having been excluded by the order of the War Department referred to, from the reserve, and being to the east of the Short claim was settled upon and occupied by a number of persons, who commenced to build a town, and that there were in 1862 some three hundred persons on the tract, which at that time had been surveyed into blocks and lots.

Before proceeding to state my views of the law applicable to this case under consideration, I deem it expedient to first briefly refer to the question of the jurisdiction of your department over this class of cases, heretofore much agitated and once before passed upon by the then Attorney General of the United States.

In the year 1864 the claim of "the missionary society of the Methodist Episcopal church," at the Dalles of the Columbia in Oregon, a case similar to the one under consideration, having been decided by the surveyor general, and upon appeal by the Commissioner of the Gen'l Land Office, finally reached the office of the Secretary.

Hon. J. P. Usher, then Secretary of the department, in a letter containing a statement of the facts in the case, submitted the same to Attorney General Bates, for his opinion.

491 That officer, on the 27th of May, 1864 (11 Opin., 47), advised the Secretary in substance as follows:

That the question of fact upon which the title of claimants, under the act of 1848, depends, should be left by the General Land Office to the decision of the courts; that no executive officer had power to settle the question definitely, and that the General Land Office should decline jurisdiction of the questions of fact upon which such claims are founded.

Following the advise of the Attorney General, Secretary Usher remanded the case to the General Land Office, with instructions to the Commissioner to decline jurisdiction of the questions of fact involved.

The changes thus instructed, in what had heretofore been the usual practice of the General Land Office did not long continue, for on the 24th day of August, 1865, Secretary Harlem, in an elaborate and able letter to the Commissioner, in which he reviewed the opinion of the Attorney General, Bates, directed him to take jurisdiction of this class of cases, in consequence of which direction the case now under consideration, which had been returned to the Commissioner, was again taken up and decided, and on appeal finally taken to the department. The dicision of the Commissioner rejected the claim of the mission.

I am satisfied that you have jurisdiction to determine matters of fact upon which claims under this proviso of the act of 1848 are

founded. If this jurisdiction did not exist, it would be im-
492 possible for you or the officers under you, the Commissioner and the surveyor general, to pass upon and decide claims arising under the various statutes of the United States, providing for the disposition of the public land if such claims chance to be in conflict with that of a mission.

For example, the act of September 27th, 1850 (9 Stat., 496), grants to certain settlers or occupants of the public lands in Oregon, on a certain date and having resided thereon a certain time, six hundred and forty acres of land. The proof to support these claims is required by the act to be produced to the surveyor general, whose duty it is, when such proof is satisfactory, to issue a certificate to the claimants, and return the proof to the General Land Office, when the Commissioner, if he finds no valid objection thereto, is to issue patents. The surveyor general decides, in the first instance, on the sufficiency of the proof adduced; but a case arises where the claim of a mission, under the act of 1848, interferes.

The examination of the facts upon which this latter claim is based is indespensably necessary in order to decide the former. Under the rule established by Secretary Usher, this cannot be done. Now, it can hardly be claimed that an officer, clothed by law with the jurisdiction to hear and decide certain claims, is obliged to decline to exercise his powers, because their exercise would involve the examination of other claims in conflict therewith, which other claims
are not specifically placed within his jurisdiction by special
493 provision of law. I do not think the mere fact that the courts have jurisdiction to decide a claim excludes the power of the department to hear and determine the facts upon which such claim is founded, when such facts are material and competent evidence in another claim over which the department has especial jurisdiction.

I do not see how, under any other view of the case, the general laws of the country disposing of the public domain can be enforced, nor how specific duties enjoined upon officers can be properly performed, nor how the public lands can ever be segregated from those that are not public.

I am therefore of opinion that jurisdiction to determine cases of this nature is vested in you as the head of the department, and of course under you and subject in each case to appeal in the Commissioner of the General Land Office and the surveyor general.

Proceeding now to the case under consideration, I am of opinion that the proviso in the first section of the act of 1848 conferred an immediate vested right upon all societies then within its provisions; "that the title to the land * * * be confirmed and established" is the language. Here is a confirmation of title, immediate operating *proprio vigore*, for the benefit of all who should at that date be within its provisions.

This construction of the law is the one adopted by Attorney
494 General Bates in his opinion of May 27th, 1864, by the Commissioner of the General Land Office in his instructions to the surveyor general, by Secretary Harlan in his review of Attorney

General Bates' opinion; and as far as I know it has never been anywhere seriously questioned. The only real questions are, therefore, first, who are within its provisions, and, second, what is confirmed? First, occupancy as a missionary station among the Indians at the date of the passage of the act is the qualification prescribed.

Whenever it is found that any religious society, at the date of the act a missionary station among any of the Indian tribes in said Territory, such society has conclusively shown a vested right, as of that date under the proviso.

As to what constitutes a "missionary station" among the Indian tribes, I shall say more in another place.

Second. What is confirmed to a religious society shown to be within the limits of the proviso? In my opinion only the land actually occupied as a mission and which was with reasonable clearness set forth by specific boundaries, together with all improvements thereon, the amount in no case to exceed six hundred and forty acres.

This is contrary to the view heretofore entertained by the Commiaaioner of the General Land Office, who, in his instructions to the surveyor general of Oregon of August 18th, 1853, said "Such provision (referring to the proviso) is understood to grant 640 acres to each separate and distinct missionary station referred to."

495 The words of the proviso are, "now occupied as missionary stations," as nothing appears to show that the word "occupied" is here used in any other than its generally received and popular signification, which is that of possession, this meaning should be given it. This possession, like any possession, must be demonstrated in some way by recognized boundaries. I would not be understood to say that in every case where land is claimed under this proviso, the claimants should be obliged to show an actual corporal possession of all the land claimed, by such evidence as having it enclosed, cultivating it, building upon it, or the like, but in my opinion there must be something to show with reasonable certainty the amount really claimed at the date of the act. There must be such an assertion of the claim as would be notice to any other person attempting to gain possession.

An enclosure would of course be the best evidence, but I think such inferior evidence as the marking out of this claim by stakes or blazed trees or the common reputation among the settlers and Indians as to its bounds, would be sufficient.

For the charitable purposes of the proviso, I would give the language a most liberal construction, but I know of no rule so liberal as to hold land "occupied" which has never been included in any enclosure, nor in any asserted claim, and upon which no improvements have ever been made.

496 I am unable to see how Commissioner Wilson reached the conclusion contained in the instructions to the surveyor general. It is, in my opinion an erroneous construction of the proviso; and as the question is now for the first time presented to the department, as an independent proposition, and as the claim under

consideration is the first of these mission claims to be finally determined, so far as departmental action is concerned, I recommend that you give the proviso the construction I have laid down.

Now to apply this construction of the law to the case under consideration.

On the 14th day of August 1848, the date of the passage of the act, the mission of St. James was in actual possession of a small piece of land upon which had been erected a church, in which the priests there stationed held religious worship.

The mission at that day had never asserted any claim whatever, had no enclosure, and was therefore only in occupancy of the land covered by the church edifice and such land as was appendant to it. This it occupied in my opinion, as a missionary station among the Indians.

The society to which said mission belongs has therefore a vested title, under the act of 1848, to the land upon which the church edifice stands and as much, appurtenant thereto, as at the date of the passage of the act was within the enclosure or used for church purposes.

497 The arguments urged by the opponents of the mission to effect a rejection of its claim is in substance this.

That the tract in controversy was included in the land claimed by the Hudson Bay Company, that the same was in their possession on the 14th day of August 1848, that such possession was recognized and guaranteed by the treaty with Great Britain of June 15th 1846, and that being thus in the adverse possession of such company, it could not have been occupied as a missionary station within the meaning of the act.

Without examining now and here the nature of the possessory rights of the Hudson Bay Company, at that day in Oregon, or to what extent they were guaranteed by the treaty of 1846, it is only deemed necessary for the purposes of this case to refer to the fact that the tract of land which in my opinion was confirmed to the mission by the act of 1848, was set apart by the chief factor of the company at Vancouver for the particular use of the missionaries there stationed, that he built thereon a church was present at its dedication and signed the record as one of the witnesses to the ceremony. Admitting that the possessory rights of the company rightfully included this particular tract, and I should still hold that this action of their chief factor was *prima facie* a relinquishment of any such possessory rights to the particular tract so set apart and that thereafter the same was occupied as a "missionary station"

498 and therefore within the terms of the proviso. More especially would I hold this as such seems to have been the understanding of the company with reference to the transaction, up to the time all their rights in Oregon of whatever nature, expired by limitation.

It is also alleged that the priests from 1835 or '6 up to the date of the act and upon that day were at Vancouver in the capacity of chaplains, paid by the company as such, and that they were not therefore missionaries within the meaning of the act. This argu-

ment is not, I think, justified by the evidence. The instructions given to Messrs. Blanchet and Demers from the bishop of Quebec, and the letter from the bishop of Juliopolis, preceding them, show that the two priests named, were dispatched upon missionary work, and that they were particularly directed to use their efforts to reclaim the natives, and in doing so to consult with and act under the advise of the officers of the company. It is shown that it was only after urgent solicitation from the bishop, and after being once refused, that they were finally granted a free passage in the boats of the company. They both swear that they were never in the service of the company, as chaplains or otherwise, and that they never had a contract or agreement of any kind to act as chaplains for the company.

Copies on file in the case containing extracts from a report of a select committee of the British House of Commons, on the Hudson Bay Company, also tend to show that they were not employed as chaplains. G. Simpson, in answer to interrogations by the committee said, "They (referring to the missionaries or chaplains to whom money was paid by the company) are under the control of the bishop of the Territory. We exercise no control over them." The company paid to the Oregon mission the annual sum of £100; but I am satisfied by a careful examination of the evidence, that this was entirely in the nature of a gratuity, and not as a salary for their services, as was also the voluntary and generous support of the priests at the table of the company within the fort.

Several respectable witnesses testify to their belief or impression that the priests were employed as chaplains, but their evidence is not sufficient to sustain the allegation.

On the whole I am satisfied that on the 14th day of August 1848, there was existing a missionary station within the meaning of the act, at Vancouver, known as the Mission of St. James, and that such mission then occupied a small tract of land which had been improved by the erection of a church. I am therefore of opinion that such land as near as can now be ascertained, together with the improvements thereon, should be set off by the surveyor general, as the tract confirmed by the act of 1848, to the religious society to which such mission belongs.

With reference to the conflicting rights, except so far as decided by the present disposition of the mission claim, I do not think it advisable to express an opinion as they were expressly reserved by the Commissioner for future examination and decision upon their merits, and therefore are not now properly before you on appeal.

Very respectfully,

W. H. SMITH,
Ass't Att'y General.

Hon. C. Delano, Secretary of the Interior.

(Endorsed:) Docket No. 1879. The Corporation of the Catholic Bishop of Nesqually, in the Territory of Wash., pl'ff, *vs.* The United States *et als.*, def'ts. In the dist. court of the 2nd judicial district of

Washington T'y, at Vancouver, W. T. Plaintiff's documentary evidence "D." W. Byron Daniels, referee.

J. M. M.

UNITED STATES OF AMERICA,
DEPARTMENT OF THE INTERIOR,
WASHINGTON, D. C., *March 31st*, 1887.

Pursuant to section 882 of the Revised States, I hereby certify that the annexed is a true copy of a letter of record in this department.

501 In testimony whereof I have hereunto subscribed my name and caused the seal of the Department of the Interior to be affixed the day and year first above written.

H. L. MULDREW,
Acting Secretary of the Interior.
S. A. S.

J. M. M. B. P.

DEPARTMENT OF THE INTERIOR,
WASHINGTON, D. C., 11*th March*, 1872.

SIR: I transmit herewith a copy of the opinion of Hon. Walter H. Smith, Assistant Attorney General, of 29th January last, on the claim of the Roman Catholic mission of St. James, to certain lands in the Vancouver district, Washington Territory, under the act of the 14th of August 1848 (9 Stat. 323).

I also transmit a copy of a letter on the subject, addressed to the department on the 2nd inst. by the Hon. G. H. Williams, Attorney General, to whom the opinion of the Assistant Attorney Gen'l was submitted.

I fully concur in the views set forth in the opinion and you will give the necessary orders to carry them into effect.

The papers accompanying your letter of 18th April last are herewith returned.

I am, sir, very respectfully, your ob't servant,

B. R. COWEN,
Acting Secretary.

Hon. Willis Drummond, Com. G. L. O.

502 (Endorsed:) The Corporation of the Catholic Bishop of Nesqually, in the Territory of Washington, plaintiff, *vs.* The United States *et als.*, defendants. In the district court of the 2nd judicial district of Washington Territory, at Vancouver. Plaintiff's documentary evidence "E." W. Byron Daniels, referee.

J. M. M.

UNITED STATES OF AMERICA,
DEPARTMENT OF THE INTERIOR,
WASHINGTON, D. C., *March* 31, 1887.

Pursuant to section 882 of the Revised Statutes, I hereby certify

that the annexed is a true copy of a letter on file in this department.

In testimony whereof I have hereunto subscribed my name and caused the seal of the Department of the Interior to be affixed the day and year first above written.

H. L. MULDREW,
Acting Secretary of the Interior.
S. A. S.

503 J. M. M. B. P.

DEPARTMENT OF JUSTISE,
WASHINGTON, *March 2nd*, 1872.

Hon. Columbus Delano, Secretary of the Interior.

SIR: I herewith return the opinion of Assistant Attorney General Smith, upon the claim of the Roman Catholic mission of St. James, for 640 acres, of land at Vancouver, in Washington Territory.

I have not examined the questions of fact discussed and decided by him, and upon them therefore, express no opinion. But I have examined and approve his views to the effect; that the land department of the Government has jurisdiction to determine whether or not the said Catholic mission has acquired title to 640 acres, or any other quantity of land at Vancouver, in Washington Territory, under and by virtue of section one of the act of August 14th, 1848, entitled "An act to establish the Territorial government of Oregon."

What effect the decission is to have if judicially questioned; the courts will decide for themselves.

Very respectfully, GEO. W. WILLIAMS,
Attorney General.

(Endorsed:) The Corporation of the Catcholic Bishop of Nesqually, in the Territory of Washington, plaintiff, *vs.* The
504 United States *et als.*, defendants. In the district court of the second judicial district of Washington Territory, holding terms at Vancouver. Plaintiff's documentary evidence "F." W. Byron Daniels, referee.

E. J. E. R. A.

DEPARTMENT OF THE INTERIOR,
GENERAL LAND OFFICE,
WASHINGTON, D. C., *July 28th*, 1887.

I, Wm. A. J. Sparks, Commissioner of the General Land Office, do hereby certify that the annexed copy of letter dated Aug. 18, 1853, from the Commissioner of the General Land Office to the acting surveyor general of Oregon is a true and literal exemplification of the official record of said letter in this office.

In testimony whereof I have hereunto subscribed my name and caused the seal of this office to be affixed, at the city of Washington, on the day and year above written.

WM. A. J. SPARKS,
Commissioner of the General Land Office.

GENERAL LAND OFFICE, *August 18th*, 1853.

John B. Preston, Esqr., acting surveyor general of Oregon, Oregon City.

SIR: The first section of the act of Congress entitled, "An
505 act to establish the Territorial government of Oregon approved August 14th 1848, provided as follows:

"That the title to the land, not exceeding six hundred and forty acres, now occupied as missionary stations among the Indian tribes in said Territory, together with the improvements thereon, be confirmed and established in the several religious societies to which said missionary stations respectively belong." Such provision is understood to grant 640 acres to each separate and distinct missionary station referred to, and a like provision is made in the "Act to establish the Territorial government of Washoington" approved March 2nd, 1853.

In order to comply with the terms of the grant under circumstances where the land "now occupied together with the improvements thereon," cannot be brought within the legal subdivisions without doing manifest injustice to the missionary station, it will become necessary to cause to be made a special survey of a square mile which shall include the land occupied, with buildings and improvements in the centre, as nearly as may be, and such special survey as in the case of an irregular private claim or reservation, will cause the adjacent public land binding thereon to become fractional tracts.

Documentary evidence, of a satisfactory character, must first be filed with you showing historically, the date and origin of each missionary establishment, the authority under which it was
506 instituted, its progress and present condition, and if claimed to be held under an act of incorporation, a copy of such act, duly authenticated, should be filed. Copies of all such documents are to be furnished by you to this office certified under your official seal; and the special surveys or allotments are to be submitted for examination here, prior to being handed over to the parties in interest.

The act of Congress is silent in regard to issuing patents for these lands, the party or parties whosoever they may be, claiming to hold in each case will do so according to their alleged authority, should such be deemed satisfactory under the plat of survey of the mission land with which you will furnish them, after such shall have undergone inspection at this office.

The duties of this office and those of the surveyor general of Oregon in regard to those lands all deemed to be simply as follows:

First, to be satisfied on documentary evidence to be filed that the missionary station is such a one as, at the date of the establishment of the territorial government, on 14th August, 1848, did exist, and that it, therefore, is entitled to claim the benefit of the act; second, to make a special survey of the claim, if found indispensably necessary so to do, or, if otherwise, to require the occupants and parties in interest showing their right so to do, to designate in writing the

particular legal subdivisions as shown by the appropriate
507 township plat which will embrace their grounds and improvements in compact form of a mile square, as nearly as may be, which designations you will transfer to the township plat, leaving all collateral questions in regard to the right of control of the *prosperity*, &c., should any such arise, to be determined either by judicial process or by further legislative enactment.

In case any mission station should be found to fall within the unadjusted limits claimed by the Hudson's Bay or Puget Sound Agricultural Companies, you will receive evidence of the claim and all the facts respecting the same, but be careful that no special survey or definite action is had thereon until the receipt of special instructions from the department.

Herewith is furnished a copy of a letter to this office, dated 3rd inst., addressed by Thomas Carberry, Esqr., on behalf of the Catholic mission in Oregon as connected with their parent institution in this district. Mr. Carberry alludes in his letter to the first day of December next as if it were the period limited by law within which claims of the character he alludes to must be filed.

The first of December, 1853, is the extended term prescribed by the act of 14th February last, amendatory of the original donation law of September 27th, 1850, within which all claims originating under the fourth section of said original act must be filed. The mission claimed, however, *are* not embraced by the said section, and no statutory provision is regarded as extending
508 to the term of filing claims of that description. It is proper, however, and it must be insisted on, that all such claims be made known prior to the time when the subdivisional surveys are being extended over the country where they exist, in *in* order that the special surveys, if found indispensably necessary, may be made in connection with the public survey, and, where otherwise, the location of the claim by legal subdivisions must be designated in manner aforesaid by the proper parties as soon as the township plat is approved.

Mr. Carberry invites special attention to the Catholic station near Fort Vancouver, the site of which fort the mission desires to secure in the event of the extinguishment of the claim of the Hudson's Bay Company thereto, and requests that instructions may be given to you in the matter. In regard to that and all similar cases that may arise, I have to state in general terms, that no property liable to be claimed by others can be allotted by you to any of the missionary stations in the absence of special instructions from the department to that effect. Where the grounds desired to be secured for any station are found to conflict with any supposed valid private rights, or, on a contingency, as in the present instance, with public property, buildings, and improvements of any kind, liable to be claimed by the Government, the survey of the square mile at such a station must be so made as to admit of shewing, by precise
509 measurements on the plat of survey, all the facts and particulars of the case, indicating by dotted lines the precise portion or

portions of property claimed or desired to be secured within such limits, which is of a doubtful or disputed character.

Very respectfully, your ob't servant,

JOHN WILSON,
Commissioner.

(Endorsed:) In the district court of the 2nd judicoal district of Washington Territory, at Vancouver. The Corporation of the Catholic Bishop of Nesqually, plaintiff, *vs.* The United States *et al.*, defendants. Plaintiff's Docu*pem*tary Evidence Exhibit "G." W. Byron Daniels, referee.

510 Registered 35, 31. W. T. Wallace. No. 1879. To clerk district court, second judicial district, Vancouver, Washington Territory. In the district court of the second judicial district of Washington Territory, holding terms for the counties of Clarke and Skamania, in said Territory. The Corporation of the Catholic — of Nesqually, in the Territory of Washington, plaintiff, *vs.* John Gibbon, T. M. Anderson, R. T. Yeatman, and The United States, defendants. Deposition. W. T. Wallace, Jr., notary public, Contra Costa Co., California.

(Endorsed:) No. 1879. Filed November 11th, 1887. (Seal.) A. Reeves Ayres, clerk, by W. F. Johnson, deputy.

In the District Court of the Second Judicial District of Washington Territory, Holding Terms at Vancouver for the Counties of Clarke and Skamania, in said Territory.

THE CORPORATION OF THE CATHOLIC BISHOP OF NESQUALLY, in the Territory of Washington, Plaintiff,
vs.
JOHN GIBBON, T. M. ANDERSON, R. T. YEATMAN, and THE UNITED STATES, Defendants.

511 It is hereby stipulated by the parties to the above-entitled action, by and through their respective attorneys, that the deposition of Antoni Langlois, a witness on behalf of plaintiff, residing at the town of Martinez, in the county of Contra Costa, in the State of California, may be taken under oath and in writing before W. T. Wallace, Jun'r, a notary public, residing at Martinez, in answer to the direct, cross, and redirect interrogatories accompanying this stipulation with like effect as if the same were taken in pursuance of a commission duly issued by the clerk and under the authority of the above-entitled court, and that said deposition when taken shall be returned through the mails by said officer taking the same to said clerk at Vancouver, Washington Territory, and shall be opened and published by said clerk on request of the attorney of either party on the trial of said cause, subject, however, to all proper objections thereto for want of competency, relevancy, or materiality, except that no objection shall be made to said deposition

because the same was not taken by or under other authority than this stipulation.

WHALLEY, BRONAUGH & NORTHUF,
Attorneys for Plaintiff.
W. H. WHITE, *U. S. Att'y and Att'y for Def'ts.*

512 In the District Court of the Second Judicial District of Washington Territory, Holding Terms at Vancouver for the Counties of Clarke and Skamania, in said Territory.

THE CORPORATION OF THE CATHOLIC BISHOP OF NESQUALLY, in the Territory of Washington, Plaintiff,
vs.
JOHN GIBBON, T. M. ANDERSON, R. T. YEATMAN, and THE UNITED STATES, Defendants.

Direct interrogations propounded by plaintiff's attorney to Antini Langlois, a witness for plaintiff in the above-entitled action, in pursuance of the foregoing stipulation.

Int. 1. State your name, age, place of residence, and occupation.

Int. 2. How long have you been engaged in such your vocation or occupation?

Int. 3. State whether you were ever at the place where the town of Vancouver now is, on the Columbia river, in Clarke county, Washington Territory. And, if yea, when were you first at said place—Vancouver?

Int. 4. For what purpose did you first visit Vancouver?

Int. 5. From what place did you start upon your journey upon the occasion of your first visit to Vancouver?

Int. 6. In what way and by what method of conveyance or travel did you accomplish that journey?

Int. 7. Who, if any one, accompanied you as a companion on that journey, and for what purpose did such person or persons so accompany you?

513 Int. 8. What was the expense, if any, to yourself and companion in making that journey, and by whom was that expense borne or defrayed?

Int. 9. What connection, if any, did the Hudson's Bay Company have with your going on that journey to Vancouver?

Int. 10. What portion, if any, of the expense of your journey to Vancouver or to the Oregon country was borne or defrayed by the Hudson Bay Company?

Int. 11. How long did you remain in the Oregon country west of the Cascade mountains after you so went to that country?

Int. 12. At what particular place or places in the Oregon country west of the Cascade mountains did you dwell or were you located during the time that you remained in that country, and about how long did you remain at each of such places?

Int. 13. What, if anything, were you engaged in doing in that country while you were there?

Int. 14. During what portion, if any, of that time were you at said place, Vancouver, and at what, if anything, were you engaged or employed while so at Vancouver?

Int. 15. About how many persons or people resided or were at Vancouver when you first arrived there and what character of persons were they?

Int. 17. If there were any married women residing at Vancouver when you first arrived there, to what class or nationality of people did they belong?

514 Int. 18. By what class or nationality of people was the Oregon country west of the Cascade mountains populated or inhabited while you were in that country?

Int. 19. If you say there were Indians there inhabiting that country, state whether they were many or few in numbers.

Int. 20. State whether Indians ever visited Vancouver when you were there; and, if so, in what numbers and for what purpose they so came to Vancouver.

Int. 21. What buildings, houses, or enclosures, if any, were at Vancouver while you remained in Oregon?

Int. 22. Was there any Catholic priest or priests in the Oregon country west of the Cascade mountains when you first entered that country and during your stay there; and, if yea, give the name or names of such priests or priest.

Int. 23. If you ever saw any Catholic priest or priests at such place, Vancouver, during your stay in Oregon, state when you first saw such priest or priests at Vancouver, how frequently thereafter you saw any priests or priest at Vancouver, who they were, and what they were engaged in doing at Vancouver, if anything.

Int. 24. If you say there were Catholic priests in the Oregon country west of the Cascade mountains while you were there, state fully what, if anything, those priests were engaged in doing while you remained in that country.

Int. 25. What religious services or ceremonies, if any, were held or performed among wild Indians at Vancouver while you were there, and by whom were they held or performed prior to 1848?

515 Int. 26. If you say that any religious services or ceremonies were held or performed among wild Indians at Vancouver when you were there, state at what particular place or places they were held or performed.

Int. 27. If you have ever been engaged in missionary work among Indians, state when and where and for how long you were so engaged, and in what your labors as such missionary consisted, what was the particular character of your labor.

Int. 28. Were there any Catholic missionary stations in the Oregon country west of the Cascade mountains when you were in that coun--rey; and, if yea, at what particular points or places were those missionary stations located?

Int. 29. What constitutes a "missionary station among Indians" as the term missionary station is known and used by and among missionaries?

Int. 30. If there is any difference in the meaning of the term "missionary station among the Indians" as known and used by and among missionaries and the same term as used by other people in general, state what that difference is.

Int. 31. If you have answered that there were Catholic priests in the Oregon country west of the Cascade mountains while you were there, now state, if you know, how those priests were supported in carrying on their pw-rk, and if any pecuniary aid was rendered them for that purpose by any one or received by them *by* any source, state from what source the same was so obtained.

516 Int. 32. State the amount or extent of any such pecuniary aid so rendered them, and how frequently the same was rendered, if you know.

Int. 33. By what authority or at whose instance did said priests enter and labor in the Oregon country west of the Cascade mountains?

Int. 34. Were any of them, and, if so, which of them, under the authority or control or in the employ of the Hudson's Bay Company while you were in the Oregon country?

Int. 35. What authority or control, if any, did the Hudson's Bay Company or any of its officers exercise over any of said priests during any part of the time you were in the Oregon country?

Int. 36. If you have answered that Catholic religious services were held at Vancouver when you were present, state whether they or any of them were held in any house or building, and what the nature or character of such services were and by whom held and who were present thereat. State generally, and confine yourself to the period of time prior to August 14th, 1848.

Int. 37. If you yourself ever held or conducted any religious worship or services or performed any religious *rights* or ceremonies at Vancouver prior to August 14, 1848, state in what year or years you did so, and how frequently and at what particular place or places in Vancouver you did so, and the particular nature or character of these services held or ceremonies performed by you. State fully.

517 WHALLEY, BRONAUGH & NORTHUF,
Attorneys for Plaintiff.

UNITED STATES OF AMERICA,
Territory of Washington, Second Judicial District, } ss:

In the District Court, Holding Terms at Vancouver.

THE CORPORATION OF THE CATHOLIC BISHOP OF NESQUALLY, in the Territory of Washington, Plaintiff,
vs.
JOHN GIBBON, T. M. ANDERSON, R. T. YEATMAN, and THE UNITED STATES OF AMERICA, Defendants.

Cross-interrogatories propounded by defendants' attorney to Antoine Langlois, a witness for plaintiff in the above-entitled action, in pursuance of the foregoing and annexed stipulations.

Cross-int. 1. Are you a Jesuit Catholic priest or a member of the Catholic church?

Cross-int. 2. Was there a Catholic missionary station at a place called Cowlitz, in Washington Territory, west of the Cascade mountains, on and prior to the 14th day of August, 1848; and, if so, what missionaries organized this station and had charge of it?

518 Cross-int. 3. Was there a Catholic missionary station in what is now the State of Oregon, west of the Cascade mountains, on and prior to the 14th day of August, 1848; and, if so, who organized such station and — charge thereof?

Cross-int. 4. State your source of information fully and in detail, whether of your own personal knowledge or from what others have told you or whether from history touching your answer to direct interrogatory thirty-one (31), as to the support of the priests and the carrying on of their work and the pecuniary aid rendered for that purpose.

Cross-int. 5. State your source of information fully and in detail enabling you to answer direct interrogatories thirty-two (32) and thirty-three (33).

W. H. WHITE,
U. S. Attorney and Attorney for Defendants.

In the District — of the Second Judicial District of Washington Territory, Holding Terms at Vancouver for the Counties of Clarke and Skamania, in said Territory.

THE CORPORATION OF THE CATHOLIC BISHOP OF NESQUALLY, in the Territory of Washington, Plaintiff,
vs.
JOHN GIBBON, T. M. ANDERSON, R. T. YEATMAN, and THE UNITED STATES, Defendants.

519 Be it remembered that pursuant to the within stipulation between the attorneys for the respective parties in the above-entitled action, which is hereto attached, on the 2nd and 3rd days of November, at the law offices of Mills and Wallace, in the town of Martinez, county of Contra Costa, State of California, before me, W. T. Wallace, Jr., a notary public in and for said county of Contra

Costa, State of California, duly commissioned and sworn, personally appeared Antori Langlois, a witness produced on behalf of the plaintiff in the above-entitled action, now pending in the said court, who, being by me duly sworn, was then and there examined and testified as follows:

In the District Court of the Second Judicial District of Washington Territory, Holding Terms at Vancouver for the Counties of Clarke and Skamania, in said Territory.

THE CORPORATION OF THE CATHOLIC BISHOP OF NESQUALLY, in the Territory of Washington, Plaintiff,
vs.
JOHN GIBBON, T. M. ANDERSON, R. T. YEATMAN, and THE UNITED STATES, Defendants.

Direct interrogatories propounded by plaintiff's attorneys to Antoni Langlois, a witness for plaintiff in the above-entitled action, in pursuance of the foregoing stipulation and according to the questions prepared by the respective counsel herein, which questions and stipulation are returned herewith.

520 Int. 1. State your name, age, place of residence, and occupation.

Ans. Antoni Langlois. My age is seventy-five years. I reside in Martinez, Contra Costa county, State of California. I am the chaplian of the Christian Brothers in said town.

Int. 2. How long have you been engaged in such—your vocation or occupation?

Ans. I have been a priest about forty-nine years and have occupied my present position about four or five years.

Int. 3. State whether you were ever at the place where the town of Vancouver now is, on the Columbia river, in Clarke county, Washington Territory; and, if yea, when were you first at said place—Vancouver.

Ans. I have been there many times; the first time I was there was in September, 1842.

Int. 4. For what purpose did you first visit Vancouver?

Ans. I went there as a missionary.

Int. 5. From what place did you start upon your journey upon the occasion of your first visit to Vancouver?

Ans. From Quebec, Canada.

Int. 6. In what way and by what method of conveyance or travel did you accomplish that journey?

Ans. I went from Quebec to Boston and sailed from Boston around Cape Horn in a ship to Vancouver. The journey took a year.

Int. 7. Who, if any one, accompanied you as a companion on that journey, and for what purpose did such person or persons accompany you?

521 Ans. Father Bolduc, a Catholic priest, and a laborer.

Father Bolduc was also a missionary, and we *we* went there to convert the people to religion.

Int. 8. What was the expense, if any, to yourself and companion in making that journey, and by whom was that expense bourne or defrayed?

Ans. The expense was about sixteen hundred ($1,600) dollars, and the money was furnished by the Society for the Propogation of Faith.

Int. 9. What connection, if any, did the Hudson's Bay Company have with your going on that journey to Vancouver?

Ans. The company had no connection with our going, though we understood they desired religion established in the country. The company made a demand of the clergy of Quebec that missionaries be sent there.

Int. 10. What portion, if any, of the expense of your said journey to Vancouver or to the Oregon country was borne or defrayed by the Hudson's Bay Company?

Ans. None at all.

Int. 11. How long did you remain in the Oregon country west of the Cascade mountains after you so went to that country?

Ans. About seven years.

Int. 12. At what particular place or places in the Oregon country west of the Cascade mountains did you dwell or were you located during the time that you remained in that country, and about how long did you remain at each of such places?

522 Ans. I was at St. Paul, in the Willamette valley; at Cowlitz, and several other places. I cannot say how long I remained in the several places, as I was almost constantly moving from place to place in the discharge of my duties. Sometimes I would stay a year or more in one place.

Int. 13. What, if anything, were you engaged in doing in that country while you were there?

Ans. Instructing the Indians and whites in religion.

Int. 14. During what portion, if any, at that time were you at said place, Vancouver, and at what, if anything, were you engaged or employed while so at Vancouver?

Ans. About one-fourth of the time I was constantly moving about. While I was at Vancouver I attended to the mission.

Int. 15. About how many persons or people resided or were at Vancouver when you first arrived there, and what character of persons were they?

Ans. About one hundred people, mostly white, and a few Indians. Some of them were half-breeds. There may have been two hundred.

Int. 17. If there were any married women residing at Vancouver when you first arrived there, to what class or nationality did they belong?

Ans. There were no white married women; a good many of the white men married Indian women. Several of such marriages had taken place before I went there and quite a number afterwards.

523 Int. 18. By what class or nationality of people was the Oregon country west of the Cascade mountains populated or inhabited while you were in that country?

Ans. There were very few white people, and they were mostly in the employ of the Hudson's Bay Company. They were Canadians, Scotchmen, and a few Irishmen. There were quite a number of Indians there.

Int. 19. If you say there were Indians there inhabiting that country, state whether they were many or few in numbers.

Ans. There was quite a large number.

Int. 20. State whether Indians ever visited Vancouver when you were there; and, if so, in what numbers and for what purpose they so came to Vancouver.

Ans. The Indians frequently visited Vancouver; probably about two thousand while I was there. They came at various times and in small parties. They came principally to trade and, at the commencement, to receive religious instructions.

Int. 21. What buildings, houses, or enclosures, if any, were at Vancouver while you remained in Oregon?

Ans. The Hudson's Bay Company had an enclosure within which there were three or four houses—wooden buildings—and property—two stores. The priests also had a chapel within the enclosure. Several men belonging to the company had small houses outside the enclosure.

Int. 22. Was there any Catholic priest or priests in the Oregon country west of the Cascade mountains when you first entered that country and during your stay there? And, if yea, give the name or names of such priest or priests.

524 Ans. There were two priests when I arrived there; names were F. Norbert Blanchet and Modest Demers. Both of these gentlemen were afterwards bishops.

Int. 23. If you ever saw any Catholic priest or priests at said place—Vancouver—during your stay in Oregon state when you first saw such priests or priest at Vancouver, how frequently thereafter you saw any priest or priests at Vancouver, who they were, and what they were engaged in doing at Vancouver, if anything.

Ans. A few weeks after I arrived I saw Father Blanchet at Vancouver. About a year or two afterwards some Jesuits arrived in the country, and I frequently met some of them in Vancouver several times in a year. I do not remember all their names, but can mention Father- De Vos, Nobili, and Goets. They were all engaged in helping on the mission.

Int. 24. If you say there were Catholic priests in the Oregon country west of the Cascade mountains while you were there state fully what, if anything, these priests were engaged in doing while you remained in that country.

Ans. They were there to christianize the Indians and to have the white people live up to their religious duties. They also established several schools.

Int. 25. What religious services or ceremonies, if any, were held

or performed among wild Indians at Vancouver while you were there and by whom were they held or performed prior to 1848?

525 Ans. There were no religious services or ceremonies other than instructing the Indians and baptizing them occasionally.

Int. 26. If you say that any religious services or ceremonies were held or performed among wild Indians at Vancouver when you were there, state at what particular place or places they were held or performed.

Ans. The ceremonies mentioned in answer to the last question were sometimes performed in the chapel and sometimes elsewhere.

Int. 27. If you have ever been engaged in missionary work among Indians, state when and where and for how long you were so engaged and in what your labors as such missionary consisted—what was the particular character of your labor?

Ans. I had a mission at the Cascades, in Oregon, about a year after I arrived; also at Cowlitz some three or four years after. My labors consisted in doing all I could to convert the Indians to Christianity and doing all I could to help them both in body and soul.

Int. 28. Were there any Catholic mission stations in the Oregon country west of the Cascade mountains when you were in that country; and, if yea, at what particular points or places were those missionary stations located?

Ans. There were several, as follows: St. Paul, Cowlitz, and Fort Langley, besides Vancouver. The Jesuits had several places which I do not remember.

Int. 29. What constitutes a "missionary station among the Indians" as the term missionary station is known and used by and among missionaries?

526 Ans. A place that we could reside in as a headquarters for the purpose of instructing the Indians and hold mass and use generally for the purpose of advancing the religion.

Int. 30. If there is any difference in the meaning of the term "missionary station among the Indians" as is known and used by and among missionaries and the same term as used by other people in general, state what that difference is.

Ans. I do not know of any difference.

Int. 31. If you have answered that there were Catholic priests in the Oregon country west of the Cascade mountains while you were there, now state if you know how those priests were supported in carrying on their work and if any pecuniary aid was rendered them for that purpose by any one or received by them from any source. State from what source the same was so obtained.

Ans. The priests were supported by the Society of the Propogation of the Faith. I know of no other support they received.

Int. 32. State the amount or extent of any such pecuniary aid so rendered them and how frequently the same was rendered, if you know.

Ans. I cannot state the amount, but the society always provided sufficient funds to carry on the work. The priests also at times cul-

tivated the land. I cannot state exactly how often aid was received from the society. It was necessarily irregular, but, to the
527 best of my recollection, it was about once a year.

Int. 33. By what authority or instance did said priests enter and labor in the Oregon country west of the Cascade mountains?

Ans. By the authority of the Archbishop of Quebec; the Jesuits received their authority from Rome.

Int. 34. Were any of them—and, if so, which of them—under *under* the authority or control or in the employ of the Hudson Bay Company while you were in the Oregon country?

Ans. None of them were.

Int. 35. What authority or control did the Hudson's Bay Company or any of its officers exercise over any of such priests during any of the time you were in the Oregon country?

Ans. The company did not have any authority or control over any of the priests whatever.

Int. 36. If you have answered that Catholics' religious services were held at Vancouver when you were present, state whether they or any of them were held in any house or building and what the nature or character of such services were and by whom held and who were present thereat. State generally and confine yourself to the period of time prior to August 14th, 1848.

Ans. The services were held in an old house, which was used as a chapel. The services were the usual Catholic ceremonies; the persons present were generally the priests and the Catholics residing in the neighborhood.

Int. 37. If you yourself ever held or conducted any religious worship or services or performed any religious rites
528 or ceremonies at Vancouver prior to August 14th, 1848, state in what year or years you did so and how frequently and at what particular place or places in Vancouver you did so and the particular nature or character of those services held or ceremonies performed by you. State fully.

Ans. I conducted mass, baptized people, and did all such duties as are required by the Catholic religion in the chapel in Vancouver before mentioned. In the fall of 1842 and during the years 1843, 1844, 1845, 1846, 1847, and 1848 and afterwards probably the ceremonies averaged once or twice a month during the period above mentioned.

Cross-interrogatories propounded by defendants' attorney to Antoni Langlois, a witness for plaintiff in the above-entitled action, in pursuance of the foregoing annexed stipulation:

Cross-int. 1st. Are you a Jesuit Catholic priest or a member of the Catholic church?

Ans. I am and was at the time I resided in the Oregon country a secular priest of the Catholic church.

Cross-int. 2nd. Was there a Catholic missionary station at a place called Cowlitz, in Washington Territory, west of the Cascade mountains, on and prior to the 14th day of August, 1848; and, if so, what missionaries organized this station and had charge of it?

Ans. There was a Catholic missionary station at a place
529 called Cowlitz, in Washington Territory, west of the Cascade mountains, on and prior to the 14th day of August, 1848. Fathers Blanchette and Demers organized it and had charge of it. I afterwards had charge of it.

Cross-int. 3. Was there a Catholic missionary station in what is now the State of Oregon, west of the Cascade mountains, and prior to the 14th day of August, 1848; and, if so, who organized such station and — charge thereof?

Ans. There were several stations. Sometimes Father Blanchet had charge of them and sometimes Father Demers.

Cross-int. 4. State your source of information fully and in detail, whether of your own personal knowledge or from what others have told you or whether from history, touching your answers to direct interrogatories thirty-one (31), as to the support of the priests and the carrying on of their work and the pecuniary aid rendered for that purpose.

Ans. I know the facts stated in my answer to direct interrogatory thirty-one (31) of my own knowledge, and heard the same from others frequently at the time I resided in the Oregon country.

Cross-int. 5. State your source of information fully and in detail enabling you to answer direct interrogatories thirty-two and thirty-three (32 & 33).

Ans. I cannot state definitely my sources of information, but it was principally derived from the *the* superiors of the mission.

ANTONI LANGLOIS, *P. Tro.*

530 STATE OF CALIFORNIA, }
County of Contra Costa, } *ss:*

I, W. T. Wallace, Jr., a notary public in and for said county and State, do hereby certify that the above and foregoing deposition was taken before me and reduced to writing by myself, at Martiniz, in said county, on the 2nd and 3rd days of November, A. D. 1887, in pursuance of the stipulation of attorneys hereto annexed; that the above-named witness before examination was sworn to testify the truth, the whole truth, and nothing but the truth, and that the said deposition was carefully read to said witness and then subscribed by him.

In testimony whereof I have hereunto set my hand as such notary public and affixed my notarial seal on this the 3rd day of November, A. D. 1887.

[SEAL.]

W. T. WALLACE, JR.,
Notary Public for Contra Costa County, State of California

(Endorsed:) In the district court of the second judicial district of Washington Territory, holding terms at Vancouver for the counties of Clarke and Skamania, in said Territory. The Corporation of the Catholic Bishop of Nesqually, in the Territory of Washington, plaintiff, *vs.* John Gibbons, T. M. Anderson, R. T. Yeatman, and the United States, defendants.

531 Deposition. Plaintiff's documentary evidence "H." W. Byron Daniels, referee. The Corporation of the Catholic Bishop of Nesqually, in the Territory of Washington, *vs.* John Gibbon, T. M. Anderson, R. T. Yeateman, and The United States. To the clerk of the district court, second judicial district, Vancouver, Washington Territory, United States.

(Endorsed:) The within received Dec. 6th, 1887.

In the District Court of the Second Judicial District of Washington Territory, Holding Terms at Vancouver for the Counties of Clarke and Skamania, in said Territory.

THE CORPORATION OF THE CATHOLIC BISHOP OF NESQUALLY, in the Territory of Washington, Plaintiff,
vs.
JOHN T. GIBBON, T. M. ANDERSON, R. T. YEATMAN, and THE UNITED STATES, Defendants.

532 It is hereby stipulated by the parties to the above-entitled action, by and through their respective attorneys, that the deposition of J. B. Z. Balduc, a witness on behalf of plaintiff, residing at the city of Quebec, in the Dominion of Canada, in British North America, may be taken under oath and in writing before any United States *counsel* residing at said city of Quebec, in answer to the direct, cross, and redirect interrogatories accompanying this stipulation, with like effect as if the same were taken in pursuance of a commission duly issued by the clerk and under the authority of the above-entitled court, and that said deposition, when taken, shall be returned through the mails by said officer taking the same to said clerk at Vancouver, Washington Territory, and shall be opened and published by said clerk on request of the attorney of either party to this action, and that such deposition may be read in evidence by either party on the trial of said cause, subject, however, to all proper objections thereto for want of competency, relevancy, or materiality, except that no objection shall be made to said deposition because the same was not taken by or under other authority than this stipulation.

WHALLEY, BRONAUGH & NORTHUF,
Attorneys for Plaintiff.
W. H. WHITE, *U. S. Att'y and Att'y for Def'ts.*

533 In the District Court of the Second Judicial District of Washington Territory, Holding Terms at Vancouver for the Counties of Clarke and Skamania, in said Territory.

THE CORPORATION OF THE CATHOLIC BISHOP OF NESQUALLY, in the Territory of Washington, Plaintiff,
vs.
JOHN GIBBON, T. M. ANDERSON, R. T. YEATMAN, and THE UNITED STATES, Defendants.

Direct interrogatories propounded by plaintiff's attorneys to J. B. Z. Balduc, a witness for plaintiff in the above-entitled action, in pursuance of the foregoing stipulation.

Int. 1. State your name, age, place of residence, and occupation.

Int. 2. How long have you been engaged in such, your vocation or occupation?

Int. 3. State whether you were ever at the place where the town of Vancouver now is, on the Columbia river, in Clarke county, Washington Territory, United States of America; and, if yea, when were you first at said place—Vancouver?

Int. 4. For what purpose did you first visit Vancouver?

Int. 5. From what place did you start upon your journey upon the occasion of your first visit to Vancouver?

Int. 6. In what way and by what method of conveyance or travel did you accomplish that journey?

Int. 7. Who, if any one, accompanied you as a companion on that journey, and for what purpose did such person or persons so accompany you?

534 Int. 8. What was the expense, if any, to yourself and companion in making that journey and by whom was that expense borne or defrayed?

Int. 9. What connection, if any, did the Hudson's Bay Company have with your going on that journey to Vancouver?

Int. 10. What portion, if any, of the expense of your said journey to Vancouver or to the Oregon count-y was borne or defrayed by the Hudson's Bay Company?

Int. 11. How long did you remain in the Oregon country west of the Cascade mountains after you so went to that country?

Int. 12. At what particular place or places in said Oregon country west of the Cascade mountains did you dwell or were you located during the time that you remained in that country and about how long did you remain at each of such places?

Int. 13. What, if anything, were you engaged in doing in that country during the time you were there?

Int. 14. During what portion, if any, of that time were you at said place—Vancouver—and at what, if anything, were you engaged or employed while so at Vancouver?

Int. 15. About how many persons or people resided or were at Vancouver when you first arrived there and what character of persons were they?

Int. 16. If there were any married women residing at Vancouver

when you first arrived there to what class of people or nationality did they belong?

535 Int. 18. By what kind or nationality of people was the Oregon country west of the Cascade mountains populated or inhabited while you were in that country?

Int. 19. If you say there were Indians there inhabiting that country, state whether they were many or few in number.

Int. 20. State whether Indians ever visited Vancouver when you were there; and, if so, in what numbers and for what purpose they came to Vancouver.

Int. 21. What buildings, houses, or enclosures, if any, were at Vancouver while you remained in the Oregon country?

Int. 22. Was there any Catholic priest or priests in the Oregon country west of the Cascade mountains when you first entered that country and during your stay there; and, if yea, what was the name of such priest or priests?

Int. 22½. If you ever saw any Catholic priest or priests at said place, Vancouver, during your stay in Oregon, state when you first saw such priest or priests at Vancouver, how frequently thereafter you saw such priest or priests at Vancouver, and what such priest or priests were engaged in doing at Vancouver, if anything, and what their names were.

Int. 23. If you say there were Catholic priests in the Oregon country west of the Cascade mountains while you were there, state fully what, if anything, thoes priests were engaged in doing while you were in that country.

Int. 24. What religious worship or ceremonies, if any, were held or performed among wild Indians at Vancouver while you were there or when you were there, and by whom were they held

536 or performed prior to 1848?

Int. 25. If you say that any religious service or ceremonies were performed among wild Indians at Vancouver when you were there, state at what particular place or places they were performed.

Int. 26. If you were ever engaged in laboring as a missionary among the Indians, state when and where and for how long you were so engaged and in what your labor as such missionary consisted—what was the character of that labor.

Int. 27. Were there any Catholic missionary stations in the Oregon country west of the Cascade mountains when you were in that country; and, if yea, at what particular points or places were those stations located?

Int. 28. What constitutes a missionary station among Indians, as the term "missionary station" is known and used by and among missionaries?

Int. 29. If there is any difference in the meaning of the term "missionary station among the Indians," as known and used by missionaries, and the same term as used by other people in general, state what that difference is.

Int. 30. If you have answered that there were Catholic priests in the Oregon country west of the Cascade mountains when or while you were there, now state, if you know, how said priests were sup-

ported or obtained their living; and if any pecuniary aid or assistance was rendered them by any one or obtained by them from any source, state from what source the same was so obtained.

537 Int. 31. State the amount or extent of that pecuniary aid, whether annually or otherwise, if known to you.

Int. 32. If there are any books or records belonging to or kept by any association or society showing the amount of such pecuniary aid or any part thereof so rendered to said priests, state where such books or records are, if you know.

Int. 33. State whether you have control of or access to said books and records or any of them.

Int. 34. If you say you have control of or access to any such books or records, please produce and annex to your deposition now being taken copies of any entries in said books relating to any pecuniary aid rendered to said Oregon priests or any of them prior to 1848.

Int. 35. If you produce any such copies of entries in said books or records, state in whose handwriting such copies are and how you know them to be true copies thereof, if you say they are true copies.

Int. 36. If such copies are not in the English language, and you are able to translate them, please furnish such translated copies and annex both the copies and such translation thereof to this your deposition.

Int. 37. If you furnish such copies please state whether or not the books from which they are copied can be obtained to be offered in evidence on the trial of the above-entitled cause or action.

Int. 38. If you have answered that there were any Catholic priests in the Oregon country west of the Cascade mountains while

538 you were in that country, now state, if you know, under whose authority or control said priests went to and labored in that country.

Int. 39. State whether or not any of those priests were in the employ of the Hudson's Bay Company while you were in Oregon. And, if yea, in what capacity were they employed by said company?

Int. 40. What control or authority, if any, did the Hudson's Bay Company or any of its officers exercise over said priests or any of them while you were in the Oregon country?

Int. 41. If you have answered that Catholic religious services were held at Vancouver when you were there, state whether any of such services were held in any house or building. And, if so, in what house or building, and what was the character of such religious services, and by whom performed, and who were present thereat? Confine yourself to the period of time while you were at Vancouver prior to 1848.

Int. 42. If you yourself ever held or conducted any religious service or worship or teaching or performed any religious rites or ceremonies at Vancouver prior to August 14th, 1848, state in what year or years you did so and how frequently and at what particular place or places in or at Vancouver and the kind or character of those services or ceremonies.

WHALLEY, BRONAUGH & NORTHUF,
Attorneys for Plaintiff.

539 UNITED STATES OF AMERICA, } ss:
Territory of Washington, 2nd Judicial District, }

In the District Court, Holding Terms at Vancouver.

THE CORPORATION OF THE CATHOLIC BISHOP OF NESQUALLY, in Washington Territory, Plaintiff,
vs.
JOHN GIBBON, T. M. ANDERSON, R. T. YEATMAN, and THE UNITED STATES OF AMERICA, Defendants.

Cross-interrogatories propounded by defendants' attorney to J. B. Z. Balduc, a witness for plaintiff in the above-entitled action, in pursuance of the foregoing and annexed stipulation.

Cross-int. 1st. Are you a Jesuit Catholic priest or a member of the Catholic church?

Cross-int. 2nd. Who preached or taught at the station mentioned in your answer to direct interrogatory twenty-seven (27)? When were these stations organized? Had they any farming land connected with the stations? If so, how much, and of what did the buildings about the stations consist?

Cross-int. 3rd. State fully and in detail, whether from what you know of your own personal knowledge or from what others have told you, the source of your information enabling you to answer direct interrogatories thiety (30) and thirty-one (31).

W. H. WHITE,
U. S. Attorney and Att'y for Def'ts.

540 In the District Court of the Second Judicial District of Washington Territory, Holding Terms at Vancouver for the Counties of Clarke and Skamania, in said Territory.

THE CORPORATION OF THE CATHOLIC BISHOP OF NESQUALLY, in the Territory of Washington, Plaintiff,
vs.
JOHN GIBBON, T. M. ANDERSON, R. T. YEATMAN, and THE UNITED STATES, Defendants.

Answers to direct interrogatories propounded by plaintiff's attorneys to J. B. Z. Bolduc, a witness for plaintiffs in the above-entitled action.

Answer to 1st Int. My name is Jean Baptiste Zacharie Bolduc; priest; aged sixty-nine years; I reside in the city of Quebec and am proctor of the cardinal archbishop of Quebec.

To 2nd Int. Since 1867.

To 3rd Int. On the 15th September, 1842, I arrived at Fort Vancouver, on the River Columbia.

To 4th Int. To visit the Rev. N. Blanchet, my eccle-astical superior, and be appointed by him to the place which I was to fill as a missionary.

To 5th Int. From Quebec.

To 6th Int. From Quebec to Boston and thence to Valparaiso, Chili; thence to Otchite; thence to the Sandwich islands (Honolulu), and thence to Fort Astoria, on the Columbia river.

To 7th Int. The Rev. Antonio Langlois; to be a missionary as well as myself.

541 To 8th Int. Sixteen hundred dollars, and it was defrayed by the Society for the Propogation of the Faith.

To 9th Int. The Hudson's Bay Company had no connection whatever with my journey, and even charged Mr. Langlois and myself one hundred and forty-four dollars for our passage on their vessel from Honolulu to Astoria.

To 10th Int. No portion of our expenses was borne by the Hudson's Bay Company.

To 11th Int. From 1842 to September, 1850.

To 12th Int. About two years at Cowlitz and Vancouver island and the balance of the time at Wallamette settlement.

To 13th Int. I was engaged on missionary work.

To 14th Int. I visited Vancouver three or four times a year to take my instructions from Messrs. Blanchet and Demers, my ecclesiastical superiors; I was not engaged on missionary or other work at Vancouver, having only gone there to receive my instructions.

To 15th Int. It is difficult to say exactly how many people resided at the fort; sometimes 400, of whom 100 were in the service of the Hudson's Bay Company, and the balance were Indians and half-breeds. At certain seasons of the year there were many more people, who came for trading purposes or for the provisioning of different posts.

To 16th Int. None.

542 To 17th Int. There were no white women. Some of the employees of the Hudson's Bay Company were married to squaws and half-breeds.

To 18th Int. There were a few Scotch and Canadian settlers and their offspring by squaws, who were, of course, half-breeds, but the greatest part of the population was Indian.

To 19th Int. At Wallamette settlement they were few in number, but were more numerous at the place where now is Oregon City; also at Fort Vancouver and at Cowlitz; at Vancouver island and Whitby island they were in still greater numbers.

To 20th Int. On my visits to the Rev. N. Blanchet I noticed a large number of Indians at Vancouver. They came for religious instruction and for tra-fic in furs.

To 21st Int. There were buildings inside the fort for the officials of the Hudson's Bay Company. The servants and other employés, as well as Indians, had houses outside the fort.

To 22nd Int. There were none except the Rev. N. Blanchet and Demers when we first arrived there. Subsequently the following priests came from Europe, viz., Messrs. Le Bas, Jayot, Pretot, Delevan, Mesplier, and Delorme; also several oblate fathers for the Nesqually mission.

To 22½ Int. On arrival I saw the Rev. Messrs. Blanchet and De-

mers and visited them two or three times a year, and they were engaged on their missionary work. After the elevation of
543 the Rev. Mr. Blanchet to the episcopate he was succeeded by Mr. Delevan, whom I saw there performing missionary work.

To 23rd Int. The priests whose names I have mentioned at answer 22 were engaged on missionary work when I saw them in that country.

To 24th Int. The religious services of the Catholic church were held among the Indians at Vancouver while I was there in that country, and these services were performed by Messrs. Blanchet and Demers prior to 1848.

To 25th Int. The Hudson's Bay Company had given the missionaries for a temporary chapel the use of an old house in the fort which had been abandoned by the company.

To 26th Int. See answers 11 and 12 as to when, where, and how long I was engaged in missionary labor, which was the usual work of a missionary, instructing the Indians' children, the half-breeds, Canadians, and a few Irish in the Catholic faith.

To 27th Int. There were Catholic missionary stations at Cowlitz, Wallamette, Nesqually, and Fort Vancouver, and at the falls of Wallamette river, also at Wallamette.

To 28th Int. A missionary station is a place at which a missionary resides occasionally and from which he goes about within his district to administer religious instruction to the Indians.

To 24th Int. I do not know of any difference in the meaning of the term "missionary station among Indians," whether used by missionaries or by other people in general.

544 To 30th Int. The Society for the Propogation of the Faith, established at Quebec and also in France, paid the missionaries' expenses, and the settlers also contributed towards their support. The missionaries at Cowlitz and at Wallamette were almost entirely supported by the Catholic settlers and the yield of their own farms.

The Hudson's Bay Company sold us our provisions at high rates, and we paid them with wheat at the rate of sixty cents a bushel.

To 31st Int. The records of the council of the Society for the Propogation of the Faith, at Quebec, give the amounts granted by such council (see answer to Int. 34, 35, 36), but I cannot say what sums were granted by the council of the same society established in France. The records of the latter are at Lyons, in France.

To 32*st* Int. The records of the Council of the Propogation of the Faith, Quebec, are at the archbishop's palace at Quebec.

To 33rd Int. I have access to such records at all times.

To 34th, 35th, and 36th Int. The records of the Society for the Propogation of the Faith, Quebec, now taken by me from the official records on deposit at the archbishop's palace, Quebec, and to which I have, as above stated, access at all times. The following amounts were voted by the council of the Society of the Propoga

tion of the Faith, Quebec, "for the missions west of the Rocky mountains on the Pacific ocean."

545 At a meeting of the said council held on the—

17th April, 1838	£300	0	0	($1,200)
17th April, 1839	£100	0	0	($400)
14th May, 1841	£200	0	0	($800)
31st of August, 1841, for passage of two priests from Quebec to Oregon	£400	0	0	($1,600)
26th April, 1842	£350	0	0	($1,400)
4th of May, 1843	£250	0	0	($1,000)
20th Dec., 1844, for years 1844–'5	£544	3	2	($2,720.63)
19th Dec., 1846	£50	0	0	($200)
21st Dec., 1847	£100	0	0	($400)
21st Dec., 1848	£100	0	0	($400)

In 1843 the Rev. Blanchet was raised to the episcopate, and the Council of the Society for the Propogation of the Faith, of Lyons, France, gave him considerable sums that year and the following years to build churches at Wallamette, Oregon City, and Fort Vancouver.

A citizen of Montreal gave him $2,000 and another gave him $3,000, and he received, in addition, considerable sums from the faithful of the diocese of Quebec and of Montreal. Some time subsequently a society in Belgium founded for assisting missions sent him church ornaments of considerable value.

To 37th Int. The records referred to from which I have taken the above extracts of the amounts granted by the council of the
546 said society at Quebec are on file at the archbishop's palace, Quebec, can be consulted there at any time, but cannot be removed.

To 38th Int. Under the authority and control of the Rev. N. Blanchet, as superior of the missions, and subsequent to 1843, under his authority and control as bishop.

To 39th Int. They were never in the employ of the Hudson's Bay Company.

To 40th Int. The Hudson's Bay Company or its officers never exercised any control over the said priests or missionaries.

To 41st Int. Catholic religious services were held at Vancouver in the old house referred to at answer 25, and were there held by the Rev. Messrs. Blanchet and Demers. They were the usual services of the Catholic church, and were attended by the Catholic servants of the Hudson's Bay Company, by the Indians, and by Catholics in the vicinity of the fort.

To 42nd Int. I never did at Vancouver.

Answers to Cross-Interrogatories.

To 1st cross-int. I am not a Jesuit, but am a secular priest, and a member of the Catholic church.

To 2nd. I preached and taught at Cowlitz for about two years, the Rev. Mr. Langlois for about one year, the Rev. Mr. Blanchet at

Wallamette for three or four years, when I took charge of Wallamette Station, and the Rev. Mr. Blanchett went to Fort Van-
547 couver, and the Rev. Mr. Demers to the Falls of Wallamette river. The Rev. Mr. Langlois was at Wallamette settlement a short time with me. Nesqually was ministered to by the Rev. Messrs. Blanchet and Demers and by myself, one or the other as occasion required, especially for sick calls, until the arrival of the oblate fathers.

After the Rev. Mr. Blanchet was raised to the episcopate he was succeeded by the Rev. Mr. Delavan at Fort Vancouver. These stations were organized previous to my arrival; cannot give the date and year. They had farming lands at Cowlitz and Wallamette settlement at Cowlitz one hundred and sixty acres and at Wallamette settlement three hundred and twenty acres. The buildings at each place consisted *at each place consisted* of a chapel, a house, and out-buildings, and at Wallamette settlement, in addition, of two school-houses, one for boys and one for girls.—I. B. Z. Bolduc, pr'st. T. W. D.

To 3rd. My knowledge of the facts stated in my answers to direct interrogatories Nos. 30 and 31 is derived from frequent conversations with the Rev. N. Blanchet and from the entries in the records of the Society for the Propogation of the Faith, Quebec, to which I have access.

I. B. Z. BOLDUC, *Pr'st.*

Consulate of the United States of America for Quebec.

QUEBEC, CANADA.

I, Theodore W. Downs, United States consul residing at the city of Quebec, in the Dominion of Canada, British North Amer-
548 ica, do hereby certify that the above and foregoing deposition was taken before me and reduced to writing by Dominick D. O. Meara, at Quebec aforesaid, on the 25th day of November, A. D. 1887, in pursuance of the stipulation of attorneys hereto annexed; that the above-named witness, J. B. Z. Balduc, before examination, was sworn to testify the truth, the whole truth, and nothing but the truth, and that the said deposition was carefully read to said witness and then subscribed by him, *one marginal note good.*

Given under my hand and the seal of the consulate, at Quebec, this 25th day of November, A. D. 1887.

THEODORE W. DOWNS,
[SEAL.] *Consul of the United States of America.*

Endorsed: Plaintiff's documentary evidence "I." W. Byron Daniels, referee.

Examined by L. and L. W. H. W. W. D. S.

DEPARTMENT OF THE INTERIOR,
GENERAL LAND OFFICE,
WASHINGTON, D. C., *October 20th*, 1887.

I, Wm. A. J. Sparks, Commissioner of the General Land Office, do

hereby certify that the annexed copy of the accounts kept by the Hudson's Bay Company at Fort Vancouver sale shop of supplies furnished by the company to the Catholic mission, showing the payments made to the company by said mission for such supplies during the years 1839, 1840, and 1841, is a true and literal exemplification of said accounts, both debits and credits, as the same appears on file here among the papers transmitted by the U. S. surveyor general of Olympia, Washington Territory, with his letter of April 29th, 1863, being a part of the papers upon which said surveyor
549 general adjudicated the conflicting claims of the Catholic mission town site, A. M. Short's donation, and military reservation at Vancouver, in said Territory.

In testimony whereof I have hereunto subscribed my name and caused the seal of this office to be affixed, at the city of Washington, on the day and year above written.

[SEAL.] WM. A. J. SPARKS,
Commissioner of the General Land Office.

G. 19262. De 1838 a 1839 et 1840.

The Catholic mission to the Hudson's Bay Company for sundries received at Fort Vancouver sale shop, viz:

550

1839.			Dr.			Cr.		
Jan.	14.	To ½ to H. Bay, green strouas ---------- 8/8	0	4	4			
		" 5 Highland gartering ---------- 1/3		1	3			
		" 1 pocket sneck knife (rec'd a-del'd 5 Mr. Demers) ----------		2	6			
		" 2 quires ruled foolscap paper (rec'd N. Blanchet) ---------- 1/9		3	6			
		" 2 quires 4to post do. ---------- 1/3		2	6			
		" 1 p. ¾ white cotton, 18 yds. ---------- 1/7		10	6			
		" ¼ lb. stitching thread ---------- 1/7		1	9			
		" 1 p'r lamb's wool drawers, No. 1 ----------		9	9			
		" 1 p'r tailors' small scissors ----------		1	9			
		" 1 box candles, 63½ cts. ---------- 1/	3	3	6			
		" 14 yds. bl'k bombasette ---------- 2/11	2	0	10			
		" 2 " fine Irish linen ---------- 3/6		7	0			
		" 1 p'r tap snuffers ----------			8			
		" 1 steel " ----------		2	8			
		" 1 foolscap book, 2 quires ----------		6	6			
		" 3 Britan-ia metal teaspoons ---------- 1/2			6			
		" ¼ lb. bl'k thread ---------- 2/8			8			
		" 1 p'r ladies' fine scissors ----------		2	0			
		" 12 yds. five printed cotton ---------- 1/2		4	0			
		" 2 gal. Madeira wine ---------- 15/9	1	11	6			
		" 1 bun. barley corn beads ----------		1	6			
		" 1½ ls. aqua macina do. ---------- 4/6		6	9			
Feb.	17.	" 4 quires plain foolscap paper ---------- 1/9		7	0			
		" ½ yd. Irish linen ---------- 3/6		1	9			
		By transfer, Dr. Wm. G. Rae, per note ----------				1	0	0
		" " " Pierre Belligue ----------				1	2	0
		" " " Francois Rivet ----------					11	0
	27.	" " " Josh. Gervais ----------				1	2	0
	22.	" p'r fine bl'k cloth trowsers, Mr. Demers ----	1	7	0			
		Amount carried forward ----------	12	11	8	3	15	0

551

1839.		Amount brought forward			12	11	8	3 15 0
Feb.	22.	To 3 doz. M. pearl shirt buttons, Mr. D.					1	
		To 4 4-4 cotton ha'k'fs		1/3		5	0	
		" 1 common pocket-knife					9	
		" p'r canvas trowsers				4	11	
		" 12 lb. soap		/6		6	0	
		" 1 pipe					1	
		(Paid Rev. N. Blanchet's notes to P. Staneska I.)						
		" 2 aqua marina beads		4/6		9	0	
		" 1 pruning q-ire					6	
		" 2 yds. small troa do.		/1			2	
		(Rev'd Mr. Demers.)						
		" ½ cs. mixed string quil-s		15/		3	9	
		" 3 yds. com. N. C. blue straw, as del'd Facque Dahautes' wife, p'r M. B. note		5/		15	0	
"	24.	" 3 lb. *twist* tobacco		1/5		4	3	
		" 1 ash plough, without trows			1	0	0	
		" 1 p'r harrow, complete			1	0	0	
		" 1 box candles, 62 cts.		1/	3	2	0	
		" 2 yds. com. printed cotton		1/11		1	10	
		" 2 quires 4to post paper		1/3		2	6	
		" 2 tin candlesticks		1/9		3	6	
March	2.	" 9 garden hoes		3/5	1	10	9	
		" 1 rag-stone					6	
		" 8 yds. Osnaburghs		1/9		6	0	
		" 15 teirs maitre de keitze					6	
"	6.	" 1 Heyson tea				4	3	
		" 1 Tivankey				2	11	
		" 6 lb-. butter		1/		6	0	
		" 4 " com. biscuit		1/4		1	4	
		By transfer, Dr. Bazil Poivier						10
		" " Chas. Carpentier						10
March	25.	To cr. Mr. Demers' note to Mr. Spence				12	0	
Apr'l	1.	" 4 horse collars		5/	1	0	0	
		" 1 rope, 1½ in.		/6		5	6	
		" 1 shovel, No. 4				4	3	
		Amount carried forward			25	5	11	4 15 0

552

1839.		Amount brought forward			25	5	11	4 15 0
April	1.	To 1 spade, No. —				4	3	
		" 2 single cod lines, 24 t.		3/9		7	6	
		" 2 English bale cloths		3/		6	0	
		" plain blanket, 3 p'ts R. B.		11/8	5	16	8	
		" 2 yds. red baize		2/8		5	4	
		" 12 com. strip'd cott. shirts		3/		1	16	
		" 2 " wh't. flan. "		8/5		16	10	
		" 2 large, square-headed axes		5/8		11	4	
		" 1 gouge				1	5	
		" 2 com. Indian guns		35/3	3	10	6	
		" 1 sett plough irons, 4 bridle-bits, irons p'r 2 ox-yokes, 4 cart-wheel boxes, 2 iron bolts, 15 by 1½ long, 1 diam'r 8 x ½, 4 iron fore-locks, 24 harrow teeth, 4 rings, bolts & chains, p'r cart frames, 177½ lbs.		1/	8	17	6	
		" 2 harnesses, 2 setts		10/	1	0	0	
		" 1 set swingletree irons, 9½ lbs.		1/		9	6	
		Wood for above, 1 d'ble, 2 single		1/ ?		3	0	
		" 4 p'r collar hans., with iron, complete		5/	1	0	0	
		" Hooks & thimbles, p'r; 4 p'r traces, 4 lb.		1/		4	0	
	4th.	" 1 small ox-chain, 26 harrow teeth, 1 swivil & chain, p'r do.		1/	3	10	0	
	6th.	" 2 lb-. leaf tobacco, Mr. Demers		/8		1	4	

15th.	"	400 4d. shingling nails	1/4			1	4	
	"	2 grease bags	/5			10	0	
	"	3 com. Indian guns	35/3		5	5	9	
	"	2 lb-. twist tobacco	1/5			2	10	
	"	4 " gunpowder	1/3			5	0	
		Amount carried forward			60	12	0	4 15 0

553

1839.		Amount brought forward			60	12	0	4 15 0
April	15. To	16 lb. ball	/6			8	0	
	"	1 tin kettle, No. 1				5	9	
	"	24 milk tureens	2/10			3	8	
	"	2 oak iron-bound 8 gal. kegs	5/8			11	4	
	"	20 iron buckles, sq'r. 4 " do. r'd. 32 es.	1/		1	12	0	
	"	1 p'r harrow hinges.						
	"	4 rings, hooks, & chain, p'r cart irons, 4 iron bolts, 9 long x 1½ sqr. 10 es.; difference of weight in 4 wagon-wheel boxes for others returned	1/			10	0	
	"	1 red oil-cloth			1	10	1	
	"	1 small bugle-horn, tin				2	6	
	"	1 empty blacking bottle					4	
	"	1 best pen-knife				4	6	
	"	20 w. fine biscuit	/5			8	4	
	"	20 lb. salt salmon	/2			3	4	
	"	1⅓ yds. died calico	/5				7	
		(Supp'd Mr. Demers.)						
May	16. "	1 carrot tobacco				2	9	
	"	6 pipes					6	
	"	6 lb-. soap	/6			3	0	
	"	P. C. looking-glass					5	
	"	2 doz. brass fayer rings with stones	/8			1	4	
	"	1 com. striped cotton shirts				3	0	
	"	1 com. pocket knife					9	
	"	1 cott. 4–4 shawl saq. handk'fs				1	3	
	"	1 large horn comb					5	
	"	1 ivory do.				1	5	
		(Supp'd Trth. Beraiv.)						
	"	10 bags flour, each 100 lb.–1,000	/3		12	10	0	
	"	25 bush. pease	4/6		5	12	6	
	"	20 " potatoes	1/5		1	8	4	
	"	" " Indian corn	5/			10	0	
		(One fowl by Fanent to the Cowlitz.)						
		Amount carried forward			90	12	5	4 15 0

554

1839.		Amount brought forward		£	90	12	5	4 15 0
May	6. To	1 bush. salt				5	0	
	"	3 bar'l- salt salmon, F. L.	40/		6	0	0	
	"	30 best Oswaburgh bags	2/		3	0	0	
	"	3 sheeting "	2/10			8	6	
	7th. "	transfer cr. Frans. Prette dit Faneaut p'r Mr. Blanchet's note			4	0	6	
	"	200 spike nails, W. Q., 24½ cts., co. ma.	1/		1	4	6	
	"	1 tin kettle, #4				3	8	
	15th. "	1 lb. bale					6	
	"	½ lb. gunpowder						
	"	1 " do. T. P. F., Rev. Mr. Demers 1/3					8	
	"	paid Mr. Demers' note in favor of Mrs. Chalifoux, of this date, for			3	0	0	
June	5. "	1 p'r best com. shoes				9	9	
	"	1 " long worsted hose				2	11	
	"	1 com. cotton shirt				3	0	

	" 1 best bana. silk handk'f			4	11			
	(To Bap'd. Leaudoins per Mr. Demers' note.)							
	" 18 yds. rope, W. Q., 7½ cts. /6			3	9			
	" 1 com. pen-knife			2	9			
9th.	" 2 gal. Madeira wine 15/9		1	11	6			
	By transfer, Dr. Cuthbert Robbillard						4	0
15th.	To 3½ lb-. twist tobacco 1/5			5	0			
	" 2½ yds. brown Holland 1/9			4	5			
	" 6 skeins bl'k silk thread /3			1	6			
	" 2 fine bl'k beaver hats 30/		3	0	0			
22nd.	By transfer, Dr. Louis Gagnow, p'r note					1	0	0
	To one p'r best dbl. tie shoes, May 22nd			12	0			
	" 1 bead oil-cloth, 3, Mr. Demers		1	10	1			
29th.	By transfer Dr. Joseph Cornoqes						10	0
	Amount carried forward		117	8	7	6	9	0

555

1839.	Amount brought forward	£117	8	7	6	9	0	
July 14.	By transfer, Dr. Charles Leaudoins					10	0	
4th.	" " Dr. T. B'te. Dubreuille							
10th.	To 1 plain blanket, 3 p'ts, B. bar			14	0			
	" 1 com. blue-cloth capot-, 3½ ells.			18	9			
	" 1 p'r com. cloth trow-ers			12	0			
	" 2 fine colt. shirts 4/6			9	0			
	" 1 com. " "			3	0			
	" 2 com. h'dk'fs 1/3			2	6			
	" 1 large bl'k silk do.			8	3			
	" 6 b'r yell. soap /6			3	0			
	" 8 twist tobacco 1/5			11	4			
	" 2 yds. green baize 2/8			11	4			
	" 1 P. C. looking-glass				5			
	" 2 doz. com. brass rings 1/6			1	0			
	" 1 Scotch cap, with peak			3	0			
	" 6 pipes				6			
	" 1 com. clasp-knife				9			
	" 6 com. cotton shirts 3/			18	0			
	" 1 fine " "			4	6			
	" 4 lb-. gunpowder 1/3			5	0			
	" 12 ball /6			6	0			
	" 2 grooving axes 2/10			5	8			
	" 1 lar. sqr. hd. axe			5	8			
	" 2 gal. fine salt /10			1	8			
	" ½ doz. knives and forkes 1/3			7	6			
	" 10 ct. 24 clench nails 1/6			15	0			
	" 1 English bail cover			3	0			
	" 1 large kd. hd. axe			4	4			
16th.	By transfer, Dr. Pierre Badagac dit Laplante					2	11	6
	" " Dr. Andre So. Martin						12	0
	Amount carroed forward	£125	17	9	10	12	6	

556

1839.	Amount brought forward	£125	17	9	10	12	6	
July 16.	By transfer, Dr. Lewis Rondeau					12	0	
	By " Do. Jasp. Despard dib Fredwick				3	2	6	
	" " Do. Francis L. Ecuqer					10	0	
	" " Do. Lewis Ossia				2	0	0	
	" " Do. Alexis Aubichon				1	17	6	
	" " Do. Joseph Gendrou					17	0	
	" " Do. Joseph Coruoqer					17	0	
	" " Do. Antonie Dechamp					10	0	
	" " Do. Thos. Agoniasto					10	0	
	" " Do. Fabieu Malois				1	7	0	
	" " Do. Francois Champagne				1	7	0	
	" " Do. Louis Auskanka					17	0	
	" " Do. Louis Shaegoskatsta					17	0	

	" " Do. Bab. Tyequariche					17	0
17th.	To 6 iron tinned tablespoons 1/5			2	6		
	" 1 com. pen-knife			2	9		
	" 2 quires thick 4to post paper 1/3			2	6		
	" 2 " ruled fo'cap paper 11/9			3	6		
	" 2 " cora enceit po-t paper /11			1	10		
	" 6 window sashed, ea. pr. 24 sqrs. 25/			7	10		
	" 85 panes window-glass, 7½ x 8½ /9		3	3	9		
	" 14 lbs. putty /6			7	0		
	" 3 Hyson tea 4/3			12	9		
	" 8¾ loaf sugar 1/6			4	5		
	" 1 tin loz. box wafers			1	0		
	" 3 yds. green baize 2/8			8	0		
	" 80 lbs. salt pork /7		2	6	8		
	" 1 oak-iron b. keg, 8 galls., pr. do.			5	8		
	" 10 lbs. butter 1/			10	0		
18th.	" 12 yds. green baize 2/8		1	12	0		
	" 200 5 lu. spike nails, W. V., 23¼ lb-. /6			11	9		
	Amount carried forward	£144	3	10		26	13	6

557

1839.	Amount brought forward	£144	3	10		26	13	6
July 18.	To 1 M 4d. shingling nails, 6t 1/4			3	4		
	" 28 31s. com. biscuit 1/4			9	4		
	" 28 fine do. 1/5			11	8		
	" 2 best Osnaburgh bags			4	0		
	" 6 salt salmon, W. V., 32 ct. 1/2			5	4		
	" 2 gum 1/2			4	0		
	" 1 tin porringer				9		
	" 1 red oil-cloth		1	10	1		
	" 1 bl'k silk hat cover			3	5		
	(Rev. Mr. Blanchet.)						
Aug. 29.	" 1 com. cott. shirt			3	0		
	" 1 p'r drab cord. trowsers			11	3		
	" 6 lb-. yellow soap 1/6			3	0		
	" 1 pla. blanket, 3 p'ts b. bar			14	0		
	" 4 yds. red baize 2/8			10	8		
	" 2 pullicat cott. handk'f 1/8			3	4		
	" 12 yds. navy-blue cotton 1/			12	0		
	" 1 p'r tailor's scissors			1	9		
	" 2 com. brass thimbles 1/5			1	0		
	" 1 p'r double-tie shoes			10	6		
	" 1 duck frock			5	3		
	" 1 com. cloth jacket			13	3		
	(Supplied Auguston Rochon.)						
	" Plain blankets, 3 p'ts red bar 11/8		4	13	4		
	" 10 ct. 20d. sharp nails 1/			10	0		
	" 2 window sashes, ea. 24 panes 25/		2	10	0		
	" 12 yds. red baize 2/8		1	12	0		
	" 1 pick-axe, W. U., 12 cts., steeled		1	12	0		
	" 8 lbs. 1-in. round bolt-iron 6/			4	0		
	" 4 plain 12-in. stock locks 6/		1	4	0		
	" 1 hand-saw, 26 in.			6	1		
	" 1 long-handled frying pan			5	8		
	" 1 single-rein bridle			9	0		
	Amount *brought* forward	164	6	3		26	13	6

558

1839.	Amount brought forward	164	6	3		26	13	6
August 29.	To 18½ lb-. hoop iron 6			9	3		
	" 1 spike gimlet				6		
	" 6 yds. bleached diaper 3/7		1	2	6		
	" $\frac{5}{16}$ cotton wick 3/3			1	0		
	" 3 lar. E. ware dishes 2/9			8	3		
	" 1 sm. " " "			2	9		

		" 6 deep plates	9		4	6		
		" 6 shallow plates			4	6		
		" 3 large tin pans, C. M.	2/6		7	6		
		" 6 cups and saucers	1/6		9	0		
		" 2 tin porringers	9		1	6		
		" transfer cr. F. Peitte dit Faueaut pr. August in Rochois' note in his favor			2	10		
	31.	" 1 sheeting frock to F. Bercier			5	3		
		" 3 buckles per harness	1/3			9		
		" 2 water-buckets, iron b's, with handles	5/		10	0		
		" 1 washing tub			6	0		
Sept.	21.	" 1 p'r drab cord. trowsers			11	3		
		" 1 fine cotton shirt			4	6		
		" 1 com. cloth jacket			13	3		
		" 1 cotton handk'f			1	3		
		" 3 lbs. mottled soap	8		2	0		
		" 1 fine swan's down vest (Bte. Jeandoin p'r order Mr. Blanchet.)			7	2		
		" 28 els com. biscuit	4		9	4		
		" 1¾ open brass kettle	3/6		6	2		
		" 1 tin kettle, No. 5			3	0		
		" 3 gum	2			6		
	26.	By transfer, Dr. Wm. Kittson					5	0
		" " Joseph Pin						10
		" " Louis Latoun dit Billard						10
		Amount carried forward		174	7	11	32	13 6
558½								
		Amount brought forward		174	7	11	32	13 6
Sept.	26.	2 com. copper kettles, W. Q., 12 lb-.	3/9	2	5	0		
		2 hand-saw files	5			10		
		3 yds. iron wire, W. Q., 1½ lbs.	4			6		
		1½ bush. salt	5		7	6		
		24 coopers' lar. rivets				5		
		6 iron tinned spoons	5		2	6		
		4 gall. timothy seed Bush.,	5		2	6		
		2 " clover "	8/		2	0		
		4 lbs. gum	2			8		
		14 salt salmon	2		2	4		
		½ bush. potatoes	1/5			9		
		1 powder horn			2	8		
		8 yds. red baize	2/8	1	1	4		
		1 tin lamp, d'ble spout			4	6		
		1 " cullender			4	0		
Oct.	3.	5 yds. trace ch-in	1/2		5	10		
		1 set singletree irons 4 iron hoops, P. traces 2 buckles, 1 in. sq'r., W. Q., 14½ 3 " 2 in. "	1		14	3		
	8th.	14 yds. bl'k bombazette	2/11	2	0	10		
		2 p'r olive cord. trowsers	11/3	1	2	6		
		½ lb. bl'k thread	2/8		1	4		
		⅓ lb. silk twist thread	35/3		8	10		
		1 paper pins				9		
		1 p'r tailors' scissors			1	9		
		2 doz. bone jacket moulds	5			10		
		6 fine striped cotton	4/6	1	7	0		
		8 yds. fine linen	3/6	1	8	0		
		12 lb-. mittled soap	8		8	0		
		12 yds. Scotch flax	2/2		14	0		
		3 red baize	2/8		8	0		
		1 rag-stone				6		
		Amount carried forward		188	17	10	32	13 6

559

		Amount brought forward				188	17	10	32	13	6
Oct.	8.	1 tin kettle, No. 1					5	9			
		7 cov'd copper kittles, vig. 16, ⅛ lbs.			3/9		3	6			
		28 yds. fine printed cotton			1/2	1	12	8			
		1 X-cut saw-file						7			
		1 com. Indian gun				1	15	3			
		2 lb-. gunpowder			1/3		2	6			
		8 balls			6		4	0			
		8 shot			6		4	0			
		2 small English shot-bags			1/2			4			
		2 doz. gun-flints			3			6			
		2 bl'k wine-bottles			9		1	6			
		2 tins blacking paste			1/6		3	0			
		10 quires ruled fo'cap paper			1/9		17	6			
		10 " uncut pot. do.			11		9	2			
		1 tin box wafers, 1 oz.					1	0			
		1 lar. slate					1	3			
		1 quire Denny cartridge paper					1	9			
		1½ bush. salt			5/		7	6			
		4 Osnaburgh bags			2/		8	0			
		6 knives and forks			1/3		7	6			
		6 Brita. metal teaspoons, doz.			1/6			9			
		3 lb. Congo tea			2/6		7	6			
		2 tin porringer-, no handles			9		1	6			
		1 cut-fine biscuit, say, 112 lb.			5	2	6	8			
		56 lbs. com. do.			4		18	8			
	9th.	1 bell, 13 in.					6	13	0		
		1 " 15 "					7	3	11		
		35 lb-. salt salmon			2			5	10		
		4 fresh butter			1/			4	0		
		12 lb-. fresh beef			6			6	0		
		½ doz. screw-nails, ½ in. } 1 doz.							3		
		½ " do. " }									
		2 tin porringers			9			1	6		
		Amount carried forward				217	1	8	32	13	6

560

		Amount brought forward			217	15	4	32	13	6
Oct.	9.	2 doz. wire corks		9		1	6			
		½ quart vinegar		1/2			4			
		20 fins 6 ths. Rathine		1/2		3	4			
		2 English packing cases		2/		4	0			
		5 yds. fine Irish linen		3/6		17	6			
		1 travelling basket			1	10	0			
		2 lar. sq.-head axes		5/8		11	4			
		28 lbs. fine flour		3		7	0			
		6 quires thick 4to post paper		1/3		7	6			
		2 papers bl'k ink powder		5			10			
		6 sticks red sealing wax		5		2	6			
		4 bl'ks lead pencils, doz		4/2		1	5			
		1 fo'cap book, 2 quires				6	6			
		1 doz. slate pencils					2			
		2 pes. broad office tape		9		1	6			
		3 galls. Madeira wine		15/9	2	7	3			
		1 wro't-iron tea-kittle, 6 quarts				15	0			
		1 black-tin teapot, 2 quarts				10	6			
		1 short-handled frying pan				3	2			
		19½ lb-. loaf sugar		6		9	9			
		½ doz. deep E. ware plates		9		4	6			
		½ shallow do.		9		4	6			
		6 cups and saucers		1/6		9	0			
		3 lbs. Hyson tea		4/3		12	9			
		2 Jap pint pots		11		1	10			
		1 cut-fine biscuit, 112 lbs.		5/	2	6	8			
		56 lbs. com. " do.		4		18	8			

		3 shoe brushes ---- 1/11		5	9			
		2 lar. tin pans ---- 2/6		5	0			
		12 tin milk turreens ---- 2/10	1	4	0			
		1 Osnaburgh bag ----		2	0			
		2 oak kegs, 2 galls. ---- 2/6		5	0			
		1 p'r tailor scissors ----		1	9			
		Amount carried forward ----	233	14	2	32	13	6
561								
1839.		Amount brought forward ----	233	14	2	32	13	6
		1 fine wool hat ----		7	6			
		3 yds. bleached diaper ---- 3/9		11	3			
		1 dressing comb ----			11			
		6 yds. bro. Holland ---- 1/9		10	6			
		2 lbs. aqua marina beads ---- 4/6		9	0			
		2 p'r long worsted hose ---- 2/11		5	0			
	10.	14 lbs. fresh beef ---- 6		7	0			
		2 iron 1½-in. padlocks, doz. ---- 7/11		1	4			
		2 galls. Madeira wine ---- 15/9	1	1	6			
		2 lar. tin cases, U. L. apartments, ea. ---- 7/6		15	0			
		1 tin sugar box ----		3	6			
		1 tea canister ----		3	6			
		2 half-pound tin boxes ---- /6		1	0			
		4 tin ½-gill cups ---- 1/4		1	4			
		2 best Osnaburgh bags ---- 2/		4	0			
	24.	15ct. 14d. sharp nails ---- 1/		15	0			
		Paid Rev. Blanchett's note of 15th Oct. in favor John Howard, p'r $40 ----	10	0	0			
Nov.	4.	To 2 bbls. Vancouver salmon (not to be ch'r., p'r order of C. F. Laughlin.)						
		12 historical rods ---- 3		3	0			
	9th.	5 C'd nails, 4½ in., 20 lbs. C. M. ---- 1/	1	0	0			
		2 water buckets, W. h'dles, U. Q., 2¼ lb-. ---6		12	0			
		1 tin lamp, d'bl. spout ----		8	0			
		2 galls. oil, with jar ---- 5/		10	0			
		2 kegs butter, 32 lbs. ---- 1	1	12	0			
		2 kegs, 2 galls., fo- do. ---- 2/6		5	0			
		2 lbs. shot ---- 6		1	0			
		1 " cut tobacco ----		1	6			
		2 com. cotton handk'fs ---- 1/3		2	6			
		2 com. cotton shirts ---- 3/		6	0			
		1 jar p'r oil p'r Mr. Blanchet ----		5	0			
		iron-works for a door, weighing 6½ lbs. ---- 1/		6	6			
	22.	transfer cr. E. Lucier Mr. Blanchett's note of 25th Nov'r, '39, in his favor ----	11	0	0			
		Amount *brought* forward ----	266	14	10	32	13	6
562								
		Amount brought forward ----	266	14	10	32	13	6
Nov.	28.	wages, Amable Petit, fr. 10th Nov., '39, to 1st June, '40 ----	9	10	0			
			276	4	10	32	13	6
		Less credit transfer ----	32	13	3			
			243	11	4			
		By transfer, Dr. John McLaughlin cr. Rev. N. Blanchet ---- 7 10 0						
		By cr. Dr. John McLaughlin cr. Rev. Demers ---- 7 10 0						
			15	0	0			
						228	11	4
1839.		Sup'd at Nesqually:						
Dec.	—.	To 4 gall. lamp oil ---- 5/	1	0	0			

1839.		Sup'd at Cowlitz:					
May	—.	T- 1 barrel salt salmon			1 5 0		
		3 com. cotton shirts	4/		12 0		
July	27.	1 blanket, 3 p'ts red bar			15 6		
1840.							
Jan'y	6.	1 barrel salt salmon, not ch'd				2 12 6	
		Vanc'r—Indian shop:					
May	6.	To 1 bush. pease			3 0		
		" 4 lbs. grease	/6		2 0		
	8.	18½ yds. red baize	3/8	3	7 10		
		15 charges ammunition, 10	/6		9		
Aug.	23.	6⅜ yds. red baize (hire of Indians)	3/8	1	4 5		
Oct.	21.	8" " " " Mr. Demers' trip to Cowlitz	3/8	1	9 4		
Dec.	23.	4 lbs. duck shot (to Mr. Demers at Cowlitz)	1/8		2 8		
May	16.	8 yds. green baize to Ind. not re'v'd mass	3/4	1	6 8		
		½ lbs. leaf tobacco, Demers and Blanchett's, Willamette	1/10		2		
					7 16 10		
1839.							
June	16.	By 6 bu. wheat from Josh. Deslards,	3/0	18 0			
	29.	By 2 lar. beav'r from Josh. Deslards,	11/	1 2 0			
Aug.	23.	transfer Dr. Josh. Destards (p. 10 bush. wheat)	3/	1 10 0			
1840.							
Jan'y	17.	5 large beaver from Josh. Destards (p. 10)	11	2 15 0			
		1 small beaver from Josh. Destards		5 6			
					6 10 6		
						1 6 4	
		Amount carried forward		233 10 2			
563		Amount brought forward				233 10 2	
		To postage in Canada, 1838			1 7		
		" freight from England to Vancouver			3 6 8		
						3 8 3	
						236 18 5	
		Less cr. balance 1st June, '39, as ac't rendered 16th July, 1839				107 12 11	
						129 5 6	
		Sup'd at Fort Vancouver sale shop, on ac't of outfit:					
Nov.	29.	10 lbs. 20d. sharp nails, 500	10		8 4		
		27 5-in. spikes, Co. M., 200	1/		1 7 0		
		16 7- " do. English, 55	10		13 4		
		1 iron shovel, No. 3			4 6		
		1 " spade shovel, 3			4 6		
		1 garden hoe			3 5		
		1 shell auger, ¾ in.			3 5		
		1 lar. ren'd hammer			2 0		
		1 spike gimlet			6		
		8 galls. molasses	5/		2 0 0		
		1 oak keg, 8 gall.			5 8		
		7 lbs. hoop iron, 1 in.	6		3 6		
		½ castor oil	2/6		1 11		
		1¾ *Ca*psom salts			6		
		2 quart bl'k bottles	6		1 0		
		1 X-cut saw, 4 feet			16 2		

		2 Osnaburgh bags, fixed, ea. 2/						4	0		
Dec.	6.	12 yds. red baize			2/9		1	13	0		
		4 doz. plain brass rings			6			2	0		
		2 lbs. com. green beads			1/6			3	0		
		2 2 lbs. white do.						3	0		
	17.	1 grindstone, 1 gin for P. C. Rondeau					1	0	0		
	19.	1 single snaffle bridle, Mr. Blanchet					9	0	0		
		Amount carried forward					10	9	9	129	5 6
564											
		Amount brought forward	10	9	9	129	5	6			
Dec.	23.	27½ lbs. loaf sugar		8		18	4				
		2 lbs. pepper		8		1	4				
		½ bush. fine salt		5/		2	6				
		12 lbs. yellow soap		8		8	0				
		1½ doz. wood screws, 1½ in.		3		5	0				
		1½ " do., ⅝				5	0				
		1 chest lock				2	5				
		2 yds. com. blue strouds, Mr. Demers		4/11		14	9				
		2 doz. gilt coat buttons		1/9		5	3				
		11 lbs. Co. tanned leathers, W.		2/2	1	3	10				
		2 galls. lamp oil		5/3		10	6				
		1 keg, 2 galls.				2	6				
		1 lb. leaf tobacco				1	0				
		Mr. Demers.									
		1 Osnaburgh bag, 2nd hand				2	0				
		1 box for rocking the above				1	6				
Jan'y	17.	Pain F. N. Blanchet's note, 9th Jan'y, '40, in favor Piere Belicque, for 15.00 stg.	15	0	0						
		By Andri L. Martin's note in favor Mr. Demers, dated 21 December, '39								12	0
		Pain F. N. Blanchet's note, as p'r bill book, this date	2	15	0						
	20.	1 lb. starch, P. Bellicque			9						
		By transfer as follows, viz:									
		Charles Tchigte								15	0
		Joseph Despard, dit Frederick								15	0
		Etienne Lucier								15	0
		Amable Arquoitte								15	0
		Pierre Bellique, for Picard								15	0
		Francois Rivet								1 10	0
		Charles Planso								15	0
		J. B. Dc. Dupady, dit McRay								15	0
		Amount carroed forward	33	3	0	129	5	6	7	7	0
565							Dr.			Cr.	
		Amount brought forward	33	3	0	129	5	6	7	7	0
		Alexis Aubichon							1	0	0
		Charles Jeandoins							1	5	0
		Francois X. Sequin dit Laderoute								15	0
		Jean Bte. Obichon								15	0
		Andre Dubois								11	0
		Pierre Desriverre								12	6
		Amable Petit								17	0
		Paul Guibbeault								17	0
		Bazil Poirier								17	0
		Adolph Chamberlain								17	0
		David Doupier								17	0
		John Alex. Launders								17	0
		Francois Lo. Pierre								17	0
		J. Bte. Bruler								17	0

	Oliver Daubin						17	0	
	Oliver Bouchard						17	0	
	Chas. Proulx						17	0	
	Dominque Farrow						17	0	
	Silvan Bourgan						17	0	
	Piere Lo. Adre						17	0	
	Michael Laforte						17	0	
	Pascal Caille dit Biscomet						17	0	
	J. Ble. Laferre						17	0	
	Pierre Gilbert						17	0	
	Lament Lauve dit Leplante						17	0	
	Ignace Losier						17	0	
	Peter Warner						17	0	
	Joseph Rocher						17	0	
	Joseph Plouff						17	0	
	Joseph Pin						17	0	
	Louis Latour dit Ballard						17	0	
	J. Bte. Ourre						17	0	
		33	3	0	129	5	6	34	7	6

566

					Dr.			Cr.		
	Amount brought forward	33	3	0	129	5	6	34	7	6
1840.	Lament Quintal							17	0	
	J. Btl. Dubreulle							17	0	
	Thomas Tewatcon							17	0	
	To transfer cr. Pierre Depet		7	0						
Feb'y 10.	" 1 shell auger, $\frac{3}{4}$ in.		3	5						
	" 3 socket chissels, ass'd sizes 1/9		5	3						
	" 10/16 lb. iron binding wire 1/4			10						
	" 1 strong gauge, $1\frac{1}{2}$ ir.		1	5						
	" 2 fr. table butt hinges, $\frac{1}{4}$ in. 10			18						
	" 12 wood screws			3						
	" 34 lbs. flat iron, $1\frac{3}{4}$ x $\frac{3}{8}$ 6		17	0						
	" 4 com. cotton shirts 3		12	0						
	" plain tobacco-box			6						
	" 1 fire-steel			5						
	" 1 bus. pease		4	6						
	(P'r Mr. Demers.)									
	By transfer, Dr. Louis Picherette							1	0	
	" " " Jean Guigras							1	0	
12.	To 1 d'ble bolt-lock, 3 in.		2	3						
	" 1 com. Osnaburgh bag		2	0						
	" 20 bush. pease 3/6	4	10	0						
13.	" 1 grindstone, 1 giv	1	0	0						
	" 1 clasp-knife							11	0	
	" 2 p'r mittens 1		2	0						
	" 3 half worsted hose 1/11		5	9						
	" 1 com. Indian gun, $3\frac{1}{2}$ ft.	1	15	3						
	" 2 lb. gunpowder 1/3		2	6						
	" 1 p'r grooving planes, $\frac{3}{4}$ in.		10	5						
	" 1 jack-plane		6	3						
	" 1 hand- "		4	11						
	(P'r Mr. Demers.)									
26.	" 1 set plough irons compr., wg. $74\frac{3}{4}$ lb. 1	3	4	9						
	" 18 pus. $1\frac{1}{4}$ in. rope, wg. $11\frac{1}{4}$ lb. 8		7	6						
	" 1 coel line, 24 th'd		3	9						
	(Mr. Blanchet.)									
	Amount carried forward	49	12	9	129	5	6	38	18	6

567

					Dr.			Cr.		
1840.	Amount brought forward	49	12	9	129	5	6	38	18	6
Feb'y 26.	To 2 English balls covers, lar. 3/		6	0						
	" 2 grease bags 3/		6	0						

"	11½ lbs. co. tanned leather	2/2	1	4	11			
"	1 shell auger, 1½ in.			3	5			
"	1 sm. gimlet				2			
"	2 socket chissels	1/9		3	6			
"	1 gauge, 1½ in.			1	5			
"	10 yds. com. blue strouds	4/11	2	9	5			
"	3 lbs. Hyson tea	3/9		11	3			
"	3 " Congo "	2/3		6	9			
"	80 " crush sugar	8	2	13	4			
	1 oak keg, 8 galls. p. do.			5	8			
"	1 p. stirrup irons			2	0			
"	2 buckles, $\frac{3}{16}$ lbs.	1/			2			
"	1 p. stirrup-, Mr. Demers			2	0			
"	60 nails, 3 in.; p. cart wheels, 5 lbs.	1/		5	0			
"	1 handle grindstone, 2 staples, 8 lbs. 1 hasp & padlock, Mr. Demers.	1/		8	0			
"	2½ lbs. 1½ in. rope	8		1	8			
"	4 bottles Turlington, Mr. Demers	2/		8	0			
"	6½ lbs. candles	1		6	6			
"	transfer cr. Paul Guilbeau		1	0	0			
28. "	Add advances to Aug. 8, Rochon	0 3 10						
"	Add advances to Aug. 8, Paul Guilbeau	3 0 00						
			3	3	10			
	Paid F. N. Blanchet's note 17th Feby., '40, in favor Chas. Rondeau as p. bill book this date, for		3	0	0			
			66	11	6			38 18 6
	Less cr. transfer		38	18	6			
			27	13	0	27	13 0	
	E. E. dr. balance this date					156	18 6	

Fort Vancouver, 2nd March, 1840.

W. G. RAL.

Signature of Wm. G. Ral.

C. H. acc't H. B. Co. Verified by A. McKinley April 25th, 1860.

J. TILTON, *S. G. W. T.*

Referred to in cross-interrogatory No. 10.
156 18 6.
(22.)

Compte de la mission, Depuis 24 Nov., 1838, au Mars —, 1839, et au Mais, Mars, 1840.

568 1838 to 1839.

Paul Guilbeau, p'r 6 Mais.				£12	10 0
1 funt	£1	15	3		
"	1	0	0		
"	3	0	0		
				5	15 0
				£6	15 0

Contains 19 pages.

Accounts at Vancouver	£276	4	10
Less by subscription	32	43	6
Balance due	243	11	4

Subscription dr. M. L.						15 0 0
						228 11 4
Accounts						8 7 1
						236 18 5
Less by						107 12 7
						129 5 6
Vancouver Indian shop						66 11 6
						195 17 12
Less by servants S.						38 19 6
						156 18 6

Sent for payment to the bishop of Red river.

Catholic mission, 1840 a 1841. To Fort Vancouver sale shop. P'r following supplies, viz., 1 outfit, 1840.

569

1840.

March	7.	To ½ bush. timothy 5/		1 3	
		" ½ gall. clover 8/		1 0	
		" 1 com. Osnaburgh bag, P. D. 2/		2 0	
		" 86 lbs. mould candles & box 1/		3 8 0	
		(For Mr. Blanchet's P. masters.)			
		" 2 oz. cotton wick 3/3		5	
	11	" 3½ lbs. 1¾-in. rope 8/		2 4	
		" 6 " com. round beads 1/6		9 0	
		" ¼ quire stout cartridge paper 3/3		10	
		Mr. Demerd.			
		" 1 bottle Madeira wine, D.		5 9	
		" 1 black lead pencil, D. 5		5	
		" 1 set plough irons, complete, w't 70 lbs. c. 1/		3 10	
		By 50 lbs. wrought iron, being difference between 1 lar. & sm. ox chain 1/			2 10 0
	19.	" paid F. N. Blanchet's note, 9th March, '40, in favor Jno. Rowland, for, as per bill book	12 10 0		
		" 1 p'r office tape		9	
	22.	" paid F. N. Blanchet's note, 20th March, '40, in favor John Rowland, for	2 10 0		
	25.	To F. N. Blanchet's note, 23rd inst., in favor John Finlay	17 10 0		
	26.	" 21 lbs. hoop iron 6		10 6	
		" 200 cooper's large rivets, 1¾ lbs. 9		1 4	
		" 12 tin milk tureens 2/10	1 14 0		
		" 2 " " strainers 2		4 0	
		" 6 E. ware cups & saucers 1/6		9 0	
		" 1 shell auger, 1 in. 3/5		3 5	
		" 3 hand-saw files 5		1 3	
		" 1 socket chisel 1/7		1 9	
		Amount carried forward	43 17 0		2 10 0

570

		Amount brought forward	43 17 0		2 10 0
Mar.	26.	" 1 tin kettle, No. 1 5/9		5 9	
		1 " do. " 5 3/		3 0	
		1 grooving axe 2/10		2 10	
		1 carpenter's adze 3/2		3 2	
		12 yds. fine striped cotton 2/2	1 6 0		
		6 English ball covers 3/		18 0	
		1 jack plane, d'ble 6/3		6 3	
		1 cross-cut saw, 6 feet	1 3 6		
		15 lbs. yellow soap 8		10 0	
		1 gall. lamp oil		5 3	
		6 lbs. com. round ass'd beads 1/6		9 0	

		½ " col. thread 2/8		1	0	4		
		7 feet flour machine wire, No. 44, 1¾ sheet 6/9			11	10		
		1 fine penknife			4	6		
April	1.	By Laurent Karonhitchigos' note, 28th March					1	1 6
		To 8 lb. ball 6			4	0		
		4 lbs. gunpowder 1/3			5	0		
		6 yds. com. blue strouds 4/11		1	1	6		
		4 cotton handk'fs 1/5			5	8		
		1 doz. bone vest moles 1				1		
		Mr. Demers.						
		10 yds. com. striped cotton, p'r Dr. 1/11			19	2		
		2 tin kettles, 1 ea., No. 78 & No. 10, p'r D.			2	8		
		The following sup'd Mr. Blanchet:						
	8.	1 flat bast. files, 8 in.				8		
		1 com. Osnaburgh bag			2	0		
		1 grease bag			3	0		
		1 cross-cut saw file, 6½ in.				8		
		1 flat rasp, D. 12			1	3		
		7 lbs. Manilla rope 1/3			8	9		
		4 galls. fine salt, ½ bush. 5/			2	6		
		1 lb. pepper				8		
		1 quire stout cartridge paper 3/3			3	3		
		Amount carried forward		54	16	3	3	11 6
571								
		Amount brought forward		54	16	3	3	11 6
April	8.	½ lb. colored thread 2/8			1	4		
		1 pair com. drab-cloth trowsers 11/			11	0		
		1 duck frock 5/3			5	3		
		1 hand-saw 6/2			6	2		
		12 sickles, wt. teeth No. 3 10			10	0		
		1 bush. pease 4/6			4	6		
		20 lbs. com. buiscuit 4			6	8		
		6 2 fine do. 5			2	6		
		1 bus. potatoes 1/5			1	5		
		2½ lbs. yeelow soap 8			1	8		
		1 " gunpowder 1/3			1	3		
		4 " 6			2	0		
		3½ " rope, ¾ in. 8			2	4		
	9.	26 bush. potatoes 1/5		1	16	10		
		10 " pease 4/6		2	5	0		
		3 com. cloth capot-s, 4 ells 19/6		2	18	6		
		6 yds. red baize 2/9			16	6		
		2 com. cotton shirts 3/			6	0		
		2 pit-saw files 8			1	4		
		Mr. Demers per an Indian.						
	24.	1 teirce Columbia salmon		2	3	9		
		6 pit-saw files 8			4	0		
		1 fine wool hat 7/6			7	6		
		1 oil-skin hat cover 3/2			3	2		
		16½ lbs. ¾-in. rope 8			11	0		
May	1st.	1 cad line, 24 threads, Mr. Demers, p'r Mr. Blanchet 3/9			3	9		
	5.	1 smoothing iron 1/6			1	6		
		8 balls cotton thread 3			2	0		
		12 sickles, W. H. teeth No. 3 10			10	0		
		4 stock locks, 10 in., screw-, & barrel 5/9		1	3	0		
		3 sacking bags 2/4			7	0		
		Amount carried forward		£71	13	2	3	11 6
572								
		Amount brought forward		71	13	2	3	11 6
May	5.	4 lbs. twist tobacco 1/6			6	0		
		1 sheeting tent, 12 ells		2	12	6		
	7.	1 hair trunk, English			13	6		

		1½ bush. pease 4/6		6	9	
		1 cod line, 24 threads 3/9		3	9	
	9.	Paid Mr. Demers' note, no date specified, in favor of M. Cottonaire, for 3 %	1	10	0	
	11.	Paid Mr. Blanchet's note, 14 inst., as per bill book this date	7	0	0	
		3 yds. green list cloth 5/7		16	9	
		2 lbs. yellow soap 8		1	4	
		5½ yds. striped cotton 1/11		10	1	
		4¼ " navy blue " 9		3	0	
		(To Pelrain's child, an order, p'r Mr. Blanchet.)				
		Passage money for 4 men, p'r Barque Vancouver, from Wowpoo to Vancouver 5/	20	0	0	
June	11.	To F. N. Blanchet, note 4th June, '40, in favor of Joseph Rocquibrune 6	6	0	0	
		To F. N. Blanchet's note, 4th May, for £8, in favor Aleix Aubichon	8	0	0	
	17.	4 cheveur skins 1/6		6	0	
		1 p'r drab-col'd trowsers 9/11		9	11	
		2 com. cotton shirts 3/		6	0	
		1 com. blue-cloth capot-, 3½ ells 18/		18	0	
		1 doz. plaited jacket buttons 1/2		1	2	
		½16 lb. bl'k thread 2/11			2	
		1 com. blue-cloth vest 7/6		7	6	
		(To Mr. Demers.)				
	20.	1 tin box, 1½ x 1½ in. long		2	6	
	22.	1 p'r combs		1	10	
		3 cherumel skins 1/6		4	6	
		1 cod line, 24 threads 3/9		3	9	
		2 com. cotton shirts 3/		6	0	
		1 spade, No. 4 ..... 4/6		4	6	
		Mr. Blanchet.				
		Amount carried forward ..... *Lbs.*	123	8	8	3 11 6
573						
		Amount brought forward	123	8	8	3 11 6
June	22.	36 lbs. 24d. clench nails 10	1	10	0	
		1 quire stout cartridge 3/3		3	3	
		1 C, 6d. shingling nails			6	
		1 chalk line 9			9	
		For Mr. Blanchet.				
		3 sheeting bags 2/10		8	6	
		5 lbs. fine biscuit 5		2	1	
		18 " corn, D. 4		5	0	
		1 " butter 1/		1	0	
		20 " salmon 2		3	4	
		1 gunpowder 1/3		1	3	
		Per Mr. Demars.				
	24.	1 p. shoes pc. 6%		10	2	
		4¾ yds. com. prt. cotton 11		4	4	
		4 lbs. ball 6		2	0	
		2 " shot 6		1	0	
		2 lbs. com. cotton beads 1/8		3	4	
		2 " T. P. F. gunpowder 1/3		2	6	
	26.	4 " twist tobacco 1/11		7	8	
		1 doz. needles 2			2	
		Mr. Demers.				
		1 tin coffee-pot		4	6	
1840.						
March	12.	4 hooks & traces irons, 3 swingletrees, 14 lbs. 1/		14	0	
	18.	12 hooks, p. traces, 4 pins, p. cart shafts, 4 rings, D., 14 buckles, p. harness, 6 rings, P. D., 40 lbs. 1/	2	0	0	
		2 shingle knives				
		1 drawing D., 1 p'r door hinges, irons for 2 ox yokes, 17½ lbs. 1/		17	6	
			13	112	6	

574

		Amount brought forward	131	12	6	3	11	6
March	20.	10 buckles, 2 rings, 2¾ lbs., 4 bridle bits 1/		2	9			
	25.	12 hooks & thimbles, p'r traces, 9 rings, p. saddle girths, 1 iron fork, 9¾ lbs. 1/		9	9			
		1 frying pan repaired		1	0			
	26.	1 dbl. spout hanging lamp 4/6		4	6			
		1 screw bolt, 6 lbs. 1/		6	0			
		1 ox chain, 66 " 1/	3	6	0			
April	8.	4 bridle buckles, 4 pins, p. ox yokes 1/			6			
		1 round adze		3	5			
May	7.	4 iron rings, p'r wheels, 4 iron boxes, D., 29 lbs. 1/		9	0			
		1 broad-axe, 9 lbs. 1/		9	0			
June	29.	1 p'r compasses		2	6			
		200 7-in. spikes, 7 lbs. 10		5	10			
		Iron works repaired, ½ day's work 2/6		2	6			
March	11.	1 large ox chain, 1 sm. ox chain, 80 lbs. 1/		4	0			
July	3.	2 scythes, 40 ins. 4/9		9	6			
		14 lbs. iron hoops, 1¼ x ⅛ 6		7	0			
	7.	Pain F. N. Blanchet's note, this date, as p'r bill book, in favor of J. Rocgubau, £8	8	0	0			
	9.	Pain F. N. Blanchet's note, 3rd July, '40, in favor Hyceuth Desloyes del Laveguere, for £2 10/	2	10	0			
		Paid F. N. Blanchet's note, 9th July, '40, in favor X. Laderoute, for $22 5 10	5	10	0			
		Amount carried forward	159	11	9	3	11	6

575

		Amount brought forward	159	11	9	3	11	6
July	9.	Paid F. N. Blanchet's note, 4 July, '40, in favor Joseph Rocquebrune, for 7	7	0	0			
	15.	Pain F. N. Blanchet's note 11th inst. in favor Joseph Rocquetrunne, for 23, 19, as p'r bill book this date	23	19	0			
	17.	Paid F. N. Blanchet's note, 3rd July, '40, in favor Joseph Rocquebrune, for	17	0	0			
	3.	To 1 iron square, 2 sets irons for scythes, irons for a bucket, 23½ lbs., 1 wagon pin, 15 ins. x 1½, 1 wagon pin, 91 x 1, 1 saw-set 2/2	1	3	6			
		1 wood marker, ¾ lb., steel 3/2		1	8			
	20.	To F. N. Blanchet's note, 30th June, in favor Jas. Rocquebrune, for 3	3	0	0			
Sept.	6.	2 galls. Teneriffe wine 16/	1	12	0			
		2 bush. com. salt 5		10	0			
		3 com. cotton shirts 3/		9	0			
		100 lb salt salmon 2		16	8			
		4 bl'k lead pencils, H. H. 6/		1	8			
		5 sheets tin, S. D. XX 6		2	6			
		4 doz. mo. pearl shirt buttons 5	1	0	8			
		7½ lb hoop iron, ¾ x 1/10 6		3	9			
		4 lb gum 2			8			
		½ lb col'd thread, No. 10 2/8		1	8			
		1 candle mould, 4 casts		5	0			
		1 lantern		3	5			
	8.	1 p. stirrups	2	0	0			
	15.	Carried forward	216	5	7	3	11	6

576

		Amount brought forward	216	5	7	3	11	6
Sept.	15.	To F. N. Blanchet's note, 19th of Aug., '40, in favor William Bailey, for $245 & 7/6	19	9	0			
		Paid F. N. Blanchet's note, 31st Aug't, '40, in favor Jas. Rocquebrun, for 5, as p'r bill book this date	5	0	0			
		By transfer Dr. Michael Laframboise			2			
		" " " Louis Fercier			4			

Oct.	1.	By one coffee-pot (returned)					4	6	0
		To 2 lbs. Irish twist tobacco	1/8		3	4			
		1 doz. gun-flints				3			
		1 standing *lmap*			1	8			
		2 oz. cotton wick				5			
		6 Ft. M. table-spoons	3		2	6			
		1 tin funnel				8			
		1 saucepan			3	7			
	9.	400 nails, 24 sharps	10		8	0			
Oct.	19.	2 lbs. soap	8		1	4			
		1 bl'k't, 3 p'ts, B.			13	0			
		½ paper pins	9			4			
		2 doz. needles	2			4			
		¼ lb. col'd thread, $30				11			
		3 cot. handk's	1/5		4	3			
		2 yds. com. blue strouds	4/11		9	10			
		1 pair youth's shoes			6	3			
		(Del'v'd Mr. Demers, p'r Tetrous' wife.)							
		2 bl'k'ts, 3 p'ts, B. B.	13/	1	6	0			
		½ lb. stitching thread, # 90	8		4	0			
		½ *olk* " " D., # 25	2/11		1	6			
		4 cotton handkerchiefs	1/5		5	8			
		3 lbs. Hyson tea	3/9		11	3			
		1 doz. gun-worms	5			5			
		1 pair drab-corded trowsers			9	11			
		2 bl'k'ts, 2½ p'ts, B. B.	10/3	1	6	0			
		P'r Mr. Demers.							
		Amount carried forward		229	1	4	9	16	0
577									
		Amount brought forward		229	1	4	3	16	0
Oct.	19.	4 boat pans	1/3		5	0			
		3 lbs. cocoa, p'r Mr. Demers	9		2	3			
		6 lbs. Columbia salmon	25/	7	10	0			
	20.	2 canvass shot bags	1/4		3	10			
		14 lbs. putty	6		7	0			
		28 " shot	6			14			
		20 " gunpowder	1/3	1	5	0			
		28 " ball	6		14	0			
		3 com. cotton shirts	3/		9	0			
		1 snak-knife	2/6		2	6			
		1 water-proof hat, 41 pc., 5/6			8	3			
		84 pains glass, 7½ x 8½	9	3	3	0			
		2 Brita met*tel* ladles	2/3		4	6			
		10 cher skins	1/6		15	0			
		1 padlock, 1½ inches	9			9			
		2 canvass bags p'r salt	1/11		3	10			
		1 cod line db'l. 24 threads			7	6			
		1 oil-silk hat cover			3	2			
		14 lbs beaver shot	6		7	0			
		1 " bl'k lead	9			9			
		1 Canada stove, 36 in.		9	0	0			
	21.	2 lamps-feeders	1/8		3	4			
		3 pipes	1			3			
		1⅝ yds. hair ribbon	3			5			
		1 bun. Holland twine	2/3		2	3			
	24.	To F. N. Blanchets note, 16 June, '40, in favor of Simon Plomondon for 8. 10. 6		8	10	6			
		1 saucepan			2	7			
		2 ball cotton wic*t*, ½ lb.				10			
		1 standing lamp			1	8			
		12 yds. fine striped cotton	2/2	1	6	0			
		Amount carried forward		265	16	6	9	16	0

578

1840.		Amount brought forward				265	16	6	9	16	0
Oct.	24.	3 lbs, ratlin	8				2	0			
		6 Hyson tea	3/9			1	2	6			
		6 yds. com. blue s?trouds	4/11			1	9	6			
		6 B. com. blue list cloth	5/7			1	13	6			
		11 lbs. soap	8				7	4			
		3 " A. M. plug tobacco	1/11				5	9			
		1 com. cloth capot-, 4½ ells				1	1	0			
		6 plain bl'k'ts, 3 pts. B. B.	13/			3	18	0			
		¾ lb. stitching thread, No. 90	8/				3	7			
		½ bl'k do., No. 25	2/11				1	6			
		6 pipes						6			
		1 large tin tray					8	0			
		1 stand-lamp					1	8			
	26.	2 bottles turpentine	2/				4	0			
		6 cotton handkerchiefs	1/5				6	8			
		2 com. cotton shirts	3/				6	0			
		1 p'r shoes pc., 5/6					8	3			
		1 " do. Wellington					10	6			
		1 tin kettle, No. 1					5	9			
		9 lbs. covered copper kittle	3/5			1	10	9			
		1 powder-horn					3	0			
		1 scraping knife						8			
		1 tin funnel						7			
		1 jacket lamp					1	3			
		8 yds. com. printed cotton	11				7	4			
	27.	5 quire- ruled foolscap paper	1/9				8	9			
		3 " 4th *past* do.	1/3				3	9			
		1 tin tureen					6	3			
		2 p'rs com. cloth trowsers	11/			1	2	0			
		2 Osnaburgh bags	2/				4	0			
	28.	6 knives & forks	1/3				7	6			
		6 Britna. M. table-spoons, doz.	3/9				1	11			
		Carroed forward				283	12	1	9	16	0

579

		Amount brought forward				283	12	1	9	16	0
Oct.	28.	1 dipper					1	8			
		6 E. W. deep plates	10				5	0			
		6 " cheese do.	8				4	0			
		2 quire- stout cartridge paper					3	3			
		5 galls. lamp oil	5/3			1	6	3			
		1 jar E. ware, p. do.					5	0			
	29.	1 Canada stove, 36 in.				9	0	0			
		234 panes window glass, 7½ x 8½				8	15	6			
		68 lbs. candles	1/			3	8	0			
		14 lbs. putty	6				7	0			
		½ ct. blue string quil-s, p. c. 10/	15/				3	9			
		2 quires 4th post paper	1/3				2	6			
		6 boat pans	1/3				7	6			
		By the following C. transfers, viz:									
		Transfer, Dr. Basil Paisier							1	0	0
		" " Amable Petit								10	0
		" " Jean Heroux								15	0
		" " Adolph Chamberlain							1	0	0
		" " Etinne Fortine							1	0	0
		" " Selvin Bourgean								10	0
		" " Louis Vasal								15	0
		" " Olive Bouchard								10	0
		" " Joseph Landance							1	0	0
		" Thomas Ray's note, 27th April, '40							12	0	6
		" P. S. Ogden's note, 13th Feb'y, '40							3	0	0
		" Joseph Rochuebrune's note, 11 May, '40								7	6
		" P. C. Pambruno do.							8	0	0

		By Charles Rondeau's note, 17 Feb'y, '40				2 0 0
		" Joseph Petraint's note, 8 Mar., '40				15 0
		" Jean Denais dit Jeremie's note				3 6
		Antoni Masta's note, 3rd Feb'y, '40				1 7
		Amount carried forward	308	1 6	32	11 6
580						
1840.		Amount brought forward	308	1 6	32	11 6
Oct.	29.	By transfer D. Antoni Azure				10 0
		" " Cæser Beaudoin				10 0
		" " Felix Bergevin				10 0
		" " J. B. Corbeill				10 0
		" " Joeffrey Jobin				10 0
		" " Louis Kanota				10 0
		" " F. X. Leard				10 0
		" " Martialle Lavalle				10 0
		" " Fabien Malais				10 0
		" " Jean Manuka				10 0
		" " Moku				10 0
		" " Ohpoonuay				10 0
		" " Jacs Ploughay				10 0
		" " Louis Rondeau				5 0
		" " Augusten Russil				10 0
		" " Thomas Smith				10 0
		" " Louis Shegaskatsta				10 0
		" " J. B. to Tyequarich				10 0
		" " Louis Vandalle, B.				10 0
		" " Louis Vives				10 0
		" " James Warfield				5 0
		" " So. Pasty, p'r Wasaiack				1 0
		" " And Wakaska			1	0 0
Nov.	2.	Paid F. W. Blanchett's note, 19th Oct., '40, to T. Pairier, as p. bill book	4	1 0		
		By the following credits, viz:				
		Transfer D. Joseph Rocher			1	0 0
		" " Etienne Joyalle			1	0 0
		" " Oliver Coutureen				10 0
		" " Ignace Loziere				15 0
		" " Dom. Leclaire				15 0
		" " Francais Denoyer				10 0
		Amount carried forward	312	2 6	48	1 6
581						
		Amount brought forward	312	2 6	48	1 6
Nov.	2.	By transfer D. Pere St. Andre				15 0
		" " J. Bte. Laportrie				10 0
		" " Louis Pechette			2	0 0
		" " John Simpson			1	0 0
		" " Joseph Bourgervee			2	0 0
		" " Joachim Lapleur			1	0 0
		" " Charles Chartrier			1	0 0
		" " Joachim Thibeault			1	0 0
		" " Michael Lacauix				10 0
		" " Joseph Lefever dit Borin			1	0 0
		" " Thomas Laird			1	0 0
		" " Louis Vandelle			1	0 0
		" " Pierre Goin			1	14 0
		" " Jaques Servant				10 0
		" " Theodore Larance			1	0 0
		" " Cuthbert Robillard			1	0 0
		" " Alexis Laprade			1	0 0
		" " Jos. Bte. Jean				10 0
		" " Rhene Selahoany				10 0
		" " Umppreville Canole				10 0
		" " Pierre Dubois				10 0

		" "	Nazaire Dupre				15	0
		" "	Louis Provean			1	0	0
		" "	Alexander Dumond				10	0
		" "	J. Bte. Lazaie				15	0
		" "	J. Bte. Braconnier			1	0	0
		" "	J. Bte. Ourre			1	0	0
		" "	Josept Pin			1	0	0
		" "	Louis Lataur dis Ballard			1	0	0
		" "	Jean Revard				10	0
		" "	Pierre Lacourse			1	10	0
		" "	Joseph Gervais			3	4	0
			Carried forward	312	2 6	80	4	6

582

1840.			Amount brought forward	312	2 6	80	4	6
Nov.	3.	By transfer	D. Louis Joicier				10	0
		" "	Pierre Belleque			1	0	0
		" "	Etenne Louciere			1	17	0
		" "	Thomas Roy			1	0	0
		" "	Xavier Seguin dit Laderate			1	0	0
		" "	Andre Picarel				10	0
		" "	Alixis Aubichon				10	0
		" "	Louis Auvet				10	0
		" "	Faleen Malais			1	10	0
		" "	Louis Vandalle, B.				17	0
		" "	James Warfield			1	0	0
		" "	Louis Ossin				10	0
		" "	J. Bte. Berrault				15	0
		" "	Louis Lalonte				4	0
		" "	Antoine Duquette				17	6
		" "	J. Bte. George des Colman				4	0
	13.	To debt Paul Guilbeau for Mr. Demers:						
		2 sheets tin S. D. x W.	6		1 0			
		1 cross-cut saw, 4 feet			16 2			
		10 lbs. soap	8		6 8			
		2 " starch	9		1 6			
		2 dbl. bolt padlocks, 3 in.	1/2		6 3			
		6 ct. 4 tacks, M.	2/9		1 8			
		4 plain blank'ts, 2½ pts. B. B.	10/3	2	1 0			
		1 Furness chisel	1/5		1 5			
		Mr Demer's note to Paul Guilbeau		10	0 0			
	17.	2 bushels salt	5/		15 0			
		1 barrel pr. salt, F. L.			5 0			
	27.	300 nails, 20d., clasp, 6 lbs.	10/		5 0			
		300 6d. shingling, clasp, 6 lbs.	3/9		1 2			
		(Pr. Joe Rivet.)						
Oct.	9.	400 spikes, 6½ in., 53½ lbs.	1/	2	13 6			
		Irons for three doors, complete, 19 lbs.	1/		19 0			
		Amount carried forward		330	16 10			

583

1840.			Amount brought forward	330	16 10	92	19	0
Oct.	20.	2 wafer-cutters, 1 day's work	3/9		7 6			
		1 p'r tongs rep'd			4 0			
	21.	1 set door hinges, complete, 1 half-square headed axe			7 0			
	22.	9 sheets stovepipe, wc'ght 121½ lbs., and making		3	10 9			
		2 elbows, p'r do.			13 0			
		1 small sheet-iron stove pan			6 0			
		4 tin porringers, w't. covers	1/3		5 0			
		4 " boxes, 2 in. diameter	1/2		4 0			
		17 yds. wire, 3 lbs. binding	1/4		4 0			
		1 tin tinder-box			9 0			
		2 kegs, p'r stovepipe	1/6		3 0			
		1 meat box repaired			6			

Nov.	19.	1 half-bushel measure			6	0	
	13.	6 staples, 3 hasps, 1 p'r compasses, p'r Mr. Demers			4	0	
		F. N. Blanchett's note in favor of H. Deslogs dit Lavageme, dated 16th Nov., 1840		9	0	0	
		F. N. Blanchett's note in favor of H. Deslogs dit Lavageme, dated 16 Oct., 1840		40	10	0	
		8 doz. comp. quinine powders	1/			8	
		2 " purges	2/6			5	
		2 " vomite	2/6			5	
		(Mr. Blanchett.)					
		Transfer cr. Kanc on Rai		11	5	0	
		" " Palu Palu		11	5	0	
		" " Nahumu Hunk		11	4	5	
		" " Mano		13	5	8	
		1 pair stir-ups (in Sept.)					
		Am't of supplies to August Rochon		5	11	3	
		" " " Paul Guilbeau		9	3	6	
		" " " Mr. Blanchet & Demers from Dpense					
Feb.	13.	3 lbs. loaf-sugar	8		2	0	
		Amount carried forward		449	17	2	92 19 0
584							
1840.		Amount brought forward		449	17	2	92 19 0
Feb'y	13.	½ lb. Twankey tea	2/5		1	3	
		2 lbs. butter	1/2		2	0	
		2 loaves bread (Mr. Demers)	8		1	4	
March	26.	½ lb. Hyson tea	3/9		1	11	
		4 " loaf-sugar	8		2	8	
		5 " fine bisiscuit	5		2	1	
		3 loaves bread	8		2	0	
		1 Osnaburgh bag	2/		2	0	
		(Mr. Blanchett.)					
April	2.	10 lbs. fine buiscuit	5		4	2	
		2 " butter	1/		2	0	
		1 " Twankey tea			2	5	
		4 " loaf-sugar (Mr. Demers)	8		2	8	
May	7.	2 " " "			3	4	
		1 " Twankey tea			2	5	
		2 " butter	1/		2	0	
		7 — salt beef	6		3	6	
		2 loaves bread	8		1	4	
		6 lbs. fine buscuit	5		2	6	
		20 " corn "	4		6	8	
		(9 Mr. Blanchette.)					
Sept.	3.	1 loaf bread				8	
		1½ lbs. pork	7			11	
		(Mr. Rochon.)					
Oct.	9.	3 lbs. butter	1/		3	0	
		6 " fine buiscuit	5		2	6	
				452	12	6	92 19 0
		Less error, note to A. Aubichon, £8 instead $8 difference		6	0	0	
				446	12	6	
		Less credits		92	19	0	
		Car.		353	13	6	
		Carried forward		£353	13	6	
585							
		Amount brought forward					£353 13 6

1840.		Nesqually supplies:					
May	27.	To 1 com. wool hat			7	0	
June	5.	" 3½ yds. com. blue shrouds	6/6	1	1	8	
1838.							
Sept.	10.	3½ " " do.		1	1	8	
							2 10 4
		Edmonton supplies:					
		1 grey milled cap			1	11	
		½ yds. H. B. blue strouds for M. Blanchette	10/6		5	3	
		3½ " blue duffle	9/9	1	14	2	
		½ " H. B. blue s-rouds	10/6		5	3	
		3½ blue duffle	9/9	1	14	2	
		3 lbs. yellow soap (Mr. Demers)	6¾		1	8	
							4 2 5
1839.		Fort Vancouver shop supplies:					
Feb.	29.	1 yd. baize to an Indian, p'r order Mr. Demers			3	8	11 5
1839.		Thompson river supplies:					
Sept	—.	1 calico shirt			3	9	
		20 balls			1	0	
		2 yds. green baize	3/4		6	8	
							11 5
		Freight from England, p'r Columbia	9	3	12	1	
		Do. " " Fonayer		1	15	0	
							5 7 1
		Amount carried forward					£336 8 5
586							
		Cont'd & am'nt brought forward					366 8 5
1840.		Fort Vancouver Ind. shop supplies:					
March	17.	To 1 com. cotton shirt	4/		4	0	
		" 2 yds. reed baize	3/8		7	4	
		¼ H. twist tobacco	2/			6	
		¾ bush. pease	4/6		3	5	
		16 yds. cod line	1		1	4	
		3 H. grease	6		1	6	
		10 chs. ammunition				6	
		1 tin kettle, #8			2	4	
		½ lb. tobacco	2/		1	0	
		(Supplied Indians sent with cattle & horses to the Cowlitz:)					
April	1.	4 yds. red baize for an Indian for a trip to Walt with Mr. Blanchet	3/8		14	8	
		2 lbs. salt salmon	2		10	0	
		30 " biscuit	3		7	6	
		6 yds. red baize	3/8	1	2	0	
		(Mr. Demers' trip to the Cowlitz.)					
	24.	1 mat bay, 92 yds. red baize	7/4		8	1	
		1 fire-steele				6	
May	7.	1 com. cotton shirt	4/		4	0	
		6 yds. green baize	3/4	1	0	0	
		1 ash basket		1	0	0	
		35 lbs. salt salmon	2		5	10	
		(To 4 Indians, p'r order Mr. Blanchette.)					
June	26.	2 lbs. beaver shot	8		1	4	
	29.	3½ yds. green baize	3/4		12	3	
		(Mr. Blanchette, Indian.)					
		1 fire-steele				6	
		28 lbs. biscuit	3		7	0	
		3 dried salmon	4		1	0	
		3 baize caps	9		2	3	
		1 foot tobacco	2		4	0	

		5 lbs. buiscuit	3		1	3			
		(To 4 Indians for agreeing to go to the Cowlitz w'h Mr. Demers & ret'n when half-way down the river.)							
	9.	6 ps. dried salmon	2		1	0			
	17.	1½ lbs. buiscuit, 5d., 1 pt. mol., 9c.			1	2			
	19.	2 yds. baize, red	3/8		7	4			
		1 qt. molasses	6		1	6			
		7 chs. amn., 5; 1 fire-steel, 6			11	0			
		Amount carried forward			7	13	4	366	8 5
587									
		Cont. & am'nt brought forward			7	13	4	366	8 5
Oct.	22.	1 tin kettle, # 5	4/		4	0			
		10 p'r dried salmon	2		1	8			
		4 salt do., 30 lbs.	2		5	0			
	28.	1 cotton shirt			4	0			
		2 " "	4/		8	0			
		(Paid 2 Indians for a trip to Cowlitz.)							
		2 mats	3		6	0			
Nov.	3.	¾ yds. green baize	3/4		2	6			
		1 resist shawl			1	8			
		2 com. cotton shirts	4/		8	0			
		(Pain Indians & canoe hire for going to the Walamet.)							
1841.									
Mar.	11.	Paid F. N. Blanchette's note to Joseph Rocquebrane			4	0	0		
								13	8 8
		Fort George supplies:							
		4 yds. green baize	3/4		13	4			
		2 com. cotton shirts	4		8	0			
		30 ch. am-unition	6		1	6			
		½ lb. twist tobacco	2/		1	0			
		Canoe hire							
								1	3 10
		Cowlitz supplies:							
Jan'y	20.	1 barrel salt salmon			1	5	0		
		¼ " " do.				6	3		
Aug.	20.	60 spikes, 7 in.				3	2		
Nov.	21.	1 barrel salt salmon			1	5	0		
		1 " " do.			1	5	0		
Dec.	28.	1 gallon molasses				6	0		
								4	10 5
								385	11 4
Oct.	3.	By 5 bush. wheat from Chas. Plaute	3/			15	0		
Nov.	3.	24 " do. X. S. Laderoute	3/		3	12	0		
	9.	4 " do. from H. D. Langucut	3/			12	0		
Oct.	21.	1 land otteo				10	0		
Feb'y	21.	9 bush. wheat from Andre Lonclaim	3/			7	0		
		13½ " do. " Chas. Tchigte			2	0	6		
		Transfer Dr. John McLaughlin, Sen'r, C. F.			15	0	0		
		Amount carried forward			23	16	6	385	11 4
588									
		Cont'd & am'nt brought forward			23	16	6	385	11 4
		By 349½ bush. wheat	2/		52	8	6		
					76	5	0		
		Less 8 bush. wheat	3/		1	4	0		
								75	1 0
								£310	10 4
		Less credit at Colville, 1839						1	11 0
								318	19 4

Recapitulation of foregoing apc's:

Sale shop supplies out, 1840			£446	12	6	
Less credits			92	19	0	
						353 13 6
Nesqually supplies			2	10	4	
Edmonton, dr. in 1838			4	2	5	
Fort Vancouver Ind. shop, 1839				3	8	
Thompson river, 1839			11	5	0	
lb freight from England & Columbia			3	12	1	
lb do. " " p'r Tw'd, gev			1	15	0	51 18 1
F'rt Vanc'v'r shop cr'd'ts	75	1 0				366 8 5
Less do. supplies from do.	19	2 11				
						366 8 5
	55	18 1				55 18 1
						310 10 4
Deduct credit at Colville						1 11 0
Dr.						308 19 4
E. E.—Add supplies, 1841						33 8 5
						£342 7 9

Fort Vancouver, 16th March, 1841.
£526.

589

Catholic Mission. DR.

1840.						
Dec. 4.	P. Mr. Blanchet:					
	To irons for an ox yoke, 9 lbs. 1/			9	0	
	2 large square-head axes 5/8			11	4	
1841.						
Jan'y 7.	½ w. cotton wick 3/3			1	8	
	6 com. striped cotton shirts 2/11			17	6	
	6 large square-head axes 5/8		1	14	0	
	3 bus. com. salt 5/			15	0	
	½ bus. timothy seed 5/			2	6	
	1 w. wh. stitching thread			6	6	
	1 tin kettle, 3 1 5/9			5	9	
	6 E. ware cups & saucers 1/6			9	0	
	4 tin boat pans 1/3			5	0	
	4 W. Canada roll tobacco 1/11			7	8	
	12 pipes 1				1	
	12 gun-flints				3	
15.	1 ring bolt, 15 staples, 4 hooks, wig. 9¾ lbs. 1/			9	9	
Feb'y 3.	Paid Mr. Blanchett's note, dated 14th March, 1840, favor of I. Larocque, p. $2			10	0	
6.	Paid do. dated 29th Oct. 1840, favor of Mrs. Leblanc		1	0	0	
	Paid do. dated 14 Nov., 1840, favor of Jos. Larocque, $7		1	15	0	
25.	Paid do. dated 21 Jan'y, 1841, favor of Jos. Rocqubune		12	11	8	
Mar. 1.	Transfer cr. Simon Plomondon p. Mr. Blanchet's note favor Jos. Larocque, dated 21st Jan'y, 1841		2	8	0	
	Carried forward		25	7	0	

590

1841.	Brought forward		25	7	0	
March 16.	To pain Mr. Blanchet's order favor of Augr. Rochon, dated 11th Jan., pr.		1	0	0	
	Total pr. Mr. Blanchet					26 7 0
	Pr. Mr. Demers:					
Jan'y 27.	To 1 p'r hinges, 2 C. 6-in. spikes nails, 1 staple, wg. 35 1/		1	15	0	

		1 tin lanthorn	3/5		3	5	
Feb'y	19.	Repairing 2 l'ge sqr.-head axes	3/		6	0	
		1 cat-head pa. plough rep'd	4/		4	0	
		2 lengths stove-pipes, 1 elbow, w'gt 13½ lbs.	1/		13	6	
	22.	4 yds. com. blue strouds	41/		19	8	
		4 men's com. cott. shirts	2/11		11	8	
		6 yds. blue duffle	7/	2	2	0	
		1 flat bast'd file 7 in.	6			6	
		2 hand-saw do. p.	5			10	
		1 cross-cut do.	8			8	
		2 bottles blacking	1/6		3	0	
		1 box wafers, 1 oz.	1/		1	0	
		8 lbs. can roll tobacco	1/11		15	4	
		2 tin porringers	9		1	6	
	25.	80 lbs. crush sugar	8	2	13	4	
		1 key 8 grs.	5/8		5	8	
Mar.	9.	28 lbs. large ox chain	6		14	0	
	10.	1 bolt, 2 hooks for ox chain, 11¾ lbs.	1/2		11	9	
		Carried forward		12	2	10	26 7 0

591

1841.		Amount brought forward		12	2	10	26 7 0
March.	13.	To 1 quir. fine cartridge paper	2/6		2	6	
		2 house bells	1/2		2	4	
		Total p'r Mr. Demers					12 7 8
1841.		P. Aug't Rochen :					
Jan'y	14.	To 1 paper cased looking-glass	3			3	
		" 1 p'r corduroy trowsers	9/11		9	11	
		1 man's fine striped cott. shirts	4/3		4	3	
	18.	1 bonnet with peak	3/			3	
	20.	2 yds. bombazette	2/11		5	10	
		3 yds. hair ribbon	4		1	0	
		1 narrow scarlet belt	1/8		1	8	
		Total, P. A. Roshon					1 5 11
		P'r Paul Guilbean :					
Feb'y	18.	To 1 hand-saw	6/1		6	1	
		1 tin kittle #1	5/9		5	9	
		12 tin milk tureens	2/10		1	14	
		1 " " strainer	2/		2	0	
		1 plain blanket, 3 pts. B. B.	11/6		11	6	
		8 lbs. can roll tobacco	1/11		15	4	
		Carried forward		3	14	8	39 14 2

592

1841.		Brought forward		3	14	8	
Feb'y	14.	To 6 doz. pipes	1			6	
		1 keg 8 g'ns	5/8		5	8	
		4 lbs. cocoa	9		3	0	
		3 men's com. cotton striped shirts	2/11		8	9	
		1 plain blanket, 1½ pt. B. B.	5/		5	0	
		40 lbs. crushed sugar	8	1	6	8	
		⅛ lb. stitching thread, #90	6/6			9	
	22.	1 com. Indian gum	33/9	1	13	9	
		1 lb. T. P. F. gunpowder	1/1		1	1	
		3 " shot	6		1	6	
		1 " ball shot	6			6	
Mar.	9.	1 single cod line, 24 thr'ds	4/5		4	5	
		Total p'r V. Guilbeau					8 6 3
		Total dr.					£48 5 0

Less the following credits, viz:

Feb'y	23.	By transfer Dr.	Louis Vandallelas		15	0	
		" " "	Jean Bte. Puvil	1	0	0	
		" " "	L. Latom dit Ballard	1	0	0	
		" " "	I. Rivard dit Huara		10	0	
		" " "	Jas. Pin	1	0	0	
	15.	" " "	Jos. Tchongagurate		15	0	
		" " "	Louis Ossin		10	0	
		" " "	X. Sequn dit Laderoute	1	10	0	
		" " "	Amable Arguortte	1	1	0	
		" " "	Joseph Cornoquer		10	0	
		" " "	Andre Lonitain	1	1	0	
		" " "	Joseph Deslands		15	0	
		" " "	Michael Laporte	1	4	0	
		" " "	Oliver Bouchard		15	0	
							13 1 0
			Carried forward				34 19 5

593 *Catholic Mission Cont.*

1841.			Brought forward				34 19 5
Mar.	16.	By the following transfers, viz:					
		1 large beaver			11	0	
		2 " otters	10/	1	0	0	
							1 11 0
			Total dr.				33 8 5

E. E. F. Vancouver, 16 March, 1841.

1839 to 1840. (Contains 25 pages.)

Supplies to Catholic Mission from Fort Vancouver Sale Shop, Outfit, 1841, *up to 16th March*, 1841.

Accounts at Vancouver	446	12	6	
Less credit by servants	92	19	0	
Balance due	358	13	6	
At Nesqually mission	12	15	4	
Total	366	8	5	1840 to 1842.
Vancouver Ind. shop	55	18	1	
Total chu.	422	6	6	
P'r Mr. Blanchet	48	19	5	
Demurs Su.	471	6	11	
Less credit by ser't	13	1	0	
Balance due	468	5	11	

(23.) Compter Depuis, Mars, 1840, a Mars, 1841, £342.7.9.
True balance, 342.7.9.

This paper, referred to in inter-og. No. 7 (cross-inter.), was shown to Mr. McKinley and the letters, words, and figures "E. E., Fort Vancouver, 16 March, 1841," identified as the handwriting of Mr. D. McTavish.
April 25, 1860.

J. TILTON, *S. G. W. T.*

594 (Endorsed:) In the district court of the second judicial district of W. T., holding terms at Vancouver. The Corporation of the Catholic Bishop of Nesqually, &c., plaintiff, *vs.* The United States *et als.*, defendants. Certified copy of certain accounts. Plaintiff's documentary evidence "J." W. Byron Daniels, referee.

595 Examined by L. and L. W. H. W. W. D. S.

DEPARTMENT OF THE INTERIOR,
GENERAL LAND OFFICE,
WASHINGTON, D. C., *October 20th*, 1887.

I, Wm. A. J. Sparks, Commissioner of the General Land Office, do hereby certify that the annexed copies of the respective affidavits of Frederick H. Ramsey, Lloyd Brooks, and Rufus Ingalls are true and literal exemplifications of said affidavits as the same appears on file here among the papers transmitted by the U. S. surveyor general with his letter of April 29th, 1883, in the matter of his adjudication of the contested land claims at Vancouver, Washington Territory, of the St. James mission, widow and heirs of A. M. Short, and others.

In testimony whereof I have hereunto subscribed my [SEAL.] name and caused the seal of this office to be affixed, at the city of Washington, on the day and year above written.

WM. A. J. SPARKS,
Commissioner of the General Land Office.

596 G. 19262.

In the matter of the contested land claims at Vancouver, Washington Territory, before the surveyor general of said Territory, the St. James mission or the Catholic church, the widow and heirs of A. M. Short, and others, claimants.

The Deposition of Frederick H. Ramsey, a Witness Called on Behalf of the Widow & Heirs of A. M. Short, Deceased.

FREDERICK H. RAMSEY, being duly sworn, deposes and says as follows in answer to interrogatories:

Int. 1. State your residence and occupation.

Ans. Multnomah county, Oregon; occupation, farmer.

Int. 2. Did you know Amos M. Short in his lifetime and do you know Esther Short and the heirs of said deceased?

Ans. I did know Amos M. Short and I know Esther Short and the heirs.

Int. 3. When did you first know Amos M. Short, and where?

Ans. In the fall of 1845; Linton, Oregon.

Int. 4. When did Mr. Short and family come to Oregon?

Ans. In 1845, if I remember aright.

Int. 5. Do you know the land claim called "Short's claim" at Vancouver; if so, how long have you known it?

Ans. I do; I think since December, 1847.

Int. 6. When did you first know Mr. Short to reside on that claim?

Ans. About December, '47, or the time above mentioned. I assisted him in working the claim.

597 Int. 7. What did you do for him?

Ans. Helped him put up a small house on the bank of the river for Mr. Short.

Int. 8. Where was his family at that time?

Ans. At Linton, Oregon.

Int. 9. Do you know of his family occupying the claim?

Ans. I think they had occupied before that house was built; know of the family being on the claim after I came back from Cayuse war, 1848—fall.

Int. 10. What do you know about Mr. Short's improvements and cultivation?

Ans. While building small house Short contracted for the improvement of five acres of land; about two acres of it cleared when I came back in fall 1848.

Int. 11. Where have Mr. Short and family resided since fall of 1848 up to this time?

Ans. Generally on their claim up to the present time.

Int. 12. What improvement since fall 1848?

Ans. They have built a house since and cultivated a number of acres about the house. Orchard has been planted.

Int. 13. All the time you helped build small house where was Mr. Short's upper line and his upper corner on the river?

Ans. Below the salmon house of H. B. Co.

Cross-examined by Rev'd J. B. A. BROUILLETT:

Int. 1. On what portion of the claim *claim* were the improvements in 1848?

Ans. On the east half.

598 Int. 2. How far from Mr. Short's first house were the improvements?

Ans. Immediately adjacent the house.

(Direct resumed:)

Int. 3. Have you any interest in the claim of Mrs. Short and the heirs of A. M. Short, deceased?

Ans. No.

(Signed) F. H. RAMSEY.

LLOYD BROOKS, being duly sworn on behalf of the military authorities, says in reply to question- by A. HALBROOK:

Int. 1. State your residence and occupation.

Ans. I reside at Vancouver, and am clerk in the quartermaster's department.

Int. 2. How long have you been at Vancouver, and in what capacity since you arrived?

Ans. I came here in May, 1848, and was clerk in Q. M. department till fall of 1852, and I left in 1853 and returned here in 1856.

Int. 3. Do you know the land in dispute?

Ans. I do.

Int. 4. Do you know anything of the St. James mission; and, if so, when did you first hear of it?

Ans. In the summer—fall of 1853. I first heard, while on a visit here, that a claim was made on the part of said St. James mission.

Int. 5. What was the situation of the church and adjacent property you term St. James mission on your arrival in 1849?

599 Ans. A portion of the present church was standing. There was no enclosure that I recollect. There was a small wing attached to the church, unoccupied at that time.

Int. 6. Who then first occupied said wing, and by whose authority?

Ans. The first tenant was an army officer, Li-ut. Denman. The building was rented of the Hudson Bay Company by the quartermaster as quarters for Lieut. Denman.

Int. 7. How long did the Co. rent that building to the Q. M.?

Ans. I cannot tell, but it was several months.

Int. 8. Was there any person as priest than at Vancouver; if so, who, and where did he live?

Ans. Father Delavand was officiating in the church as priest and lived within the H. B. Co.'s fence or pickets, in one of their houses.

Int. 9. Prior to 1853 did you ever hear of the St. James mission?

Ans. I never heard of it till then.

Int. 10. Prior to 1853 did you ever hear that any of the Catholic clergy claimed any land in the vicinity of Vancouver as a mission claim or otherwise?

Ans. I did not.

Int. 11. Prior to 1853 who exercised acts of ownership on the land in dispute?

Ans. The Hudson Bay Company and the military authorities who obtained from the company permission to occupy the land.

Int. 12. Did any one representing the Mission of St. James ever object to any occupancy or any act concerning the land on the part of the military authorities?

600 Ans. Not to my knowledge.

Int. 13. Was not your situation such that you would have been likely to know if this had occurred?

Ans. I think I should; my situation being such as to make me acquainted with what transpired in regard to the land.

By E. D. SHATTUCK on behalf of Mrs. Short and the heirs of A. M. Short:

Int. Do you know anything of Short's residence and cultivation?

Ans. His family were residing here in May, 1849, and have been residing here ever since, when I have been here. Mr. Short was here from 1849 up to the time of his death. They have cultivated a small farm near the Short house since my attention was first called to that matter, which was very soon after May, 1849.

Int. Where was Short's upper line and his upper corner on the river?

Ans. Some time in 1850 the county laid off a town and he pointed out a tree near the present corner of the Government reserve as his southeast corner.

Cross-examined by Rev'd J. B. BROUILLETT:

Int. When you arrived did Short's family then live in the house called "the Short house"?

Ans. They lived in a log house, to the best of my recollection, about 50 feet from the present Short house.

Int. Up to what time did they live in the house now called "the Short house"?

601 Ans. I do not know when they left that house; they were living there at the time of Mr. Short's death, and I think they remained there until March, 1853, and perhaps longer.

Re-examination by A. HOLBROOK:

Int. How long did Father Delevand remain after your arrival?

Ans. I don't recollect.

Int. Were you intimately acquainted with him while here?

Ans. I knew him very well; I visited him often; sometimes three or four times a week.

Int. Did he ever represent himself as a missionary, or did he ever make any suggestion as to any claim under the law in regard to mission claims?

Ans. He never spoke of either of these subjects, that I reccollect.

(Signed) L. BROOKS.

APRIL 25TH, 1860.

Cross-examination of L. BROOKS, made by Mr. FARRAR:

Int. 1. When you came to Vancouver, in 1849, was Short himself residing upon the land?

Ans. I don't know that Short was here himself; his family were on the land. I did not know him.

Int. 2. When did you first become acquainted with the corners of Short's claim?

Ans. I don't know the year it was when the county laid off the town site.

Int. 3. Do you know the present corners of Short's claim?

Ans. I know the southeast corner, and I think I know the other.

602 Int. 4. Do you know that the corners and lines of the Short claim have been changed since 1849 or any of them?

Ans. Not to my knowledge.

Int. 5. Have you not heard they were charged before or in 1849?

Ans. I am not familiar at all except with the S. E. corner.

Int. 6. Do you know the distance by the river between his old S. E. and S. W. corners?

Ans. It is a mile and a half. It is near Parker's house; it is west of Parker's house.

Int. 7. On what part of the claim was Short's family residing in 1849?

Ans. On the lower end or western end of the claim, close to the

river bank. They did not reside in the house now known as Short house; the Short house was built afterwards.

Int. 8. Was not the house the family occupied in 1849 to the west of that house you called the Short house?

Ans. It might have been to the west of it some two or three feet.

Int. 9. Down to what time did the family occupy the house in which you first knew them?

Ans. I can't state positively. I think the Short house was built in the summer of 1850.

Int. 10. Whether or not any other person or persons resided upon the claim in 1849?

Ans. There was a family by the name of Finlay, and another by the name of Kellogg.

Int. 11. Were these families upon the land when you came to Vancouver in 1849?

603 Ans. There were in May, 1849.

Int. 12. State on what part of the land they resided.

Ans. Kellogg had a strip outside of Short's fence. It was not more than 200 yards from the present lower wharf to where Kellogg's house was. I do not mean to be understood that Short had a fence near there in 1849. Finlay's house was about 200 yards to the westward of Kellogg's house.

Int. 13. At that time were Kellogg and Finlay each claiming a portion of the land claim?

Ans. I never heard of Finlay claiming any. It was about the time of Gardner's death, in 1850, that I first heard of Kellogg's claim.

Int. 14. Where did you first see Short to know him?

Ans. I don't know. It was not long after I came into the country.

Int. 15. How long did Kellogg live on the claim?

Ans. I don't know. I think he had left before Gardner's death, but can't testify that he had. I think Finlay left in the spring of 1850 and went to Oregon City.

Int. 16. Down to what date did Short's family occupy the house on the western part of the claim which you characterize as "the Short house"?

Ans. Certainly up to January, 1853, and I think as late as March of the same year.

Int. 17. What other persons have you known as residents upon and claimants of the Short claim or any part thereof? And state their names.

Ans. No others.

604 Int. 18. Did you not know one Gardner, who was a claimant?

Ans. Yes, sir; I forgot him. He did not live on the land. I can't think of any others; never heard of Gardner claiming the land until the day he was killed.

Int. 19. Do you not know or have you not heard that Gardner

made considerable improvements upon the land; and, if so, on what portion?

Ans. Never heard of it.

Int 20. Do you know when the improvements on the east part of the land was made by Short or those claiming under him?

Ans. It was, I think, in 1863 that the hotel was built on the eastern part of the land. In the spring of 1850 Short enclosed a piece of land near the Kellogg house. I don't know whether he cultivated or improved this piece of land at all.

Int. 21. Are you or not acquainted with John F. Knoble?

Ans. I am.

Int. 22. Do you or not recollect when he was married, where, and to whom?

Ans. I don't recollect when he was married. He was married in the Catholic church at this place (Vancouver) by Rev'd Father Brouillett and to Catherine McIntish.

Int. 22. Were you present at the ceremony?

Ans. I was.

Int. 23. Were you one of the witnesses to the marriage? If so, did you sign your name as such witness in a register or book?

Ans. I was a witness, and think I signed my name as such
605 in a register or book. I was present also at a baptism, and signed my name as a witness to the baptism or else to the marriage of Noble.

Int. 24. Can you not state the year of the said marriage or baptism?

Ans. It must have been in 1851 or 1852 that Noble was married.

Int. 25. You have stated in your direct examination that Reverends Mr. Delavand never made any suggestion to you that he was a missionary. Did you ever talk with him respecting his business or calling?

Ans. Never.

Int. 26. Did he ever tell you that he was a chaplain of the H. B. Company?

Ans. No, sir.

Int. 27. Are you acquainted with Major Simington, of the U. S. Army?

Ans. I was.

Int. 28. When, for how long, and where?

Ans. He arrived at Oregon City in fall of 1849. I knew him till I left Oregon.

Int. 29. Was he not at some period stationed at Vancouver, and for how long?

Ans. I think he was here, but don't recollect for how long time.

Int. 30. Do you know or can you state the year and time of year he was at Vancouver?

Ans. I cannot.

To Mr. HALBROOK:

Int. 1. When was the marriage of Mr. J. F. Noble, to which you have referred?

606 Ans. It was in 1851, I presume.

Int. 2. After your arrival at Vancouver and prior to that time were not very considerable repairs and improvements made on the Catholic church?

Ans. I don't recollect any before the marriage.

Int. 3. When were improvements first made?

Ans. The first I knew anything or which attracted my attention were made since December, 1855.

(By Mr. FARRAR:)

Int. 1. In your direct examination you stated you left Vancouver in 1853 and returned in 1856. State where you were while absent.

Ans. I left here in March, 1853, and returned in December, 1855. I was in the valley of Walla Walla during that time.

(Signed) L. BROOKS.

RUFUS INGALLS, being sworn in behalf of those opposing the St. James mission claim, says:

Int. 1. State your present residence and employment.

Ans. Fort Vancouver. I am captain and assistant quartermaster, U. S. Army.

Int. 2. When did you first come to Vancouver, and how long did you remain?

Ans. I arrived in May, 1849. I remained here on duty till 31st August, 1852, as principal Q. M. of the then 11th military department. I was here till the next March, and then was absent till March, '56, when I returned, and have continued here since.

607 Int. 3. Examine this paper, purporting to be a letter to General Jesup, and state whether it is signed by you.

Ans. It is signed by me. It is addressed to General Jesup, dated January 15, 1859. It contains a statement of facts in regard to the land in dispute, to the best of my knowledge and belief.

See "Exhibit A."

Int. 4. When did you first hear of the St. James mission?

Ans. I never heard of it at all prior to 1853. I am quite sure that I did not hear of it at all till after my return in 1856.

Int. On your arrival in 1849 state the condition of the Catholic church.

Ans. A part of the present church is what was then the old church—a mere shell without enclosures.

Int. Who was then priest, and where did he live?

Ans. A person by the name of Delavan, who was lodged and fed and I understood paid by the Hudson Bay Company.

Int. Were you well acquainted with him?

Ans. Tolerably so. I knew him perfectly.

Int. Did you ever know him to claim or pretend to be a missionary?

Ans. I never did.

Int. Was he understood to be so by any one, to your knowledge?

Ans. Not to my knowledge.

Int. Did you ever hire any part of the buildings now used for church purposes? If so, state the particulars.

608 Ans. There were no sufficient public quarters built early in 1850, and Lt. Denman, of the rifle reg't, arriving with his family an arrangement was made with the H. B. Co. for the church. As I supposed, Mr. Denman occupied the wing, and I don't know but he did some of the church, and continued to do so for several months. The account was kept with the H. B. Co. and I paid the money to their agent. The building was rec-oned as the property of the Co.

Int. Did any one ever object to this use of the church?

Ans. Not that I ever heard.

Int. Did any one besides the Co. ever claim rent?

Ans. No; not of me, and there was no one else whose business it was to pay rents.

Int. Was your use of the building known to the priest?

Ans. I don't know. None was consulted, but if any priest was in Vancouver at the time he must have known of its use.

Int. In the report or letter to General Jesup you speak of a proceeding instituted against you and Col. Loring in 1850. Did anybody then appear in behalf of the St. James mission?

Ans. No.

Int. Was not that proeeeding one of general notoriety in regard to the land in dispute?

Ans. It was. It was instituted after orders had been given for building the post. It was a matter that excited general interest. A large amount of money—over $100,000—was expended by me during that year.

609 Int. From the time of your coming to the present was there ever any protest or objection on the part of the mission of St. James to any act of yours on the premises?

Ans. From 1849 to 1856 there never was, to my knowledge. I only know that I have heard that Bishop Blanchet has sent a protest to the general in command; no objection was ever made to me.

Int. Do you know whether the H. B. Co. claim any of the building- in the present enclosure of the mission?

Ans. I don't know what they claim now. I know they did claim the church in 1849 and in 1856 and all the other buildings then. The building next the church, below, is one of the H. B. Companie's buildings and was in their use till hored by me. I hired it of the Co. and have paid rent to the Co. for a long time. It has never been considered beyond the companie's control. It is now occupied under my direction. The mission or church never pretended to claim it.

Int. Has any rent ever been paid to the church for any building or for any privilege connected with the land at Vancouver by you?

Ans. Never.

Int. Has any ever been claimed by any agent of the mission or any priest?

Ans. Not that I remember.

(Signed) RUFUS INGALLS,

610 *Capt., A. Qru., U. S. Army.*

Cross-examination by Mr. FARRAR on the 26 April, 1860:

Int. 1. Are you not acquainted with Sir Geo. Simpson of the Hudson Bay Company?

Ans. No; I am not.

Int. 2. Has or not he been at Vancouver since you first came here?

Ans. Not to my knowledge.

Int. 3. Are you or not acquainted with his handwriting?

Ans. I don't think I am. I may have seen his signature, but can't undertake to say that I would know it.

Int. 4. Have you not in your possession or under your control a published or printed report from the select committee of the Hudson Bay Company, ordered by the House of Commons of Great Britian to be printed July 31st and August 11, 1857, or at or of any other date?

Ans. I don't think I have. I don't think I have ever possessed the document itself. I don't think I have ever seen it. I have seen refferences to it.

Int. 5. When an officer of the U. S. Army is under arrest, by order of competent military authorities, what provision is made, if any, for the payment of rent of his quarters if he occupies quarters not owned by the U. S.?

Ans. By the regulations of the army (here Holbrook ob-

611 jects) an officer on duty at a military post is entitled to quarters whether owned by the public or not. To get possession of them he must apply in writing to the officer of the Q. M. dep't at that post, stating under what orders he is serving.

Int. 6. —.

Int. 7. Is this the rule to be followed by an officer who is put under military arrest and then ordered, as under such request, to any given post?

Ans. I think it would be. The quarters are only assigned to an officer by a q'master under the order of the commanding officer of a post.

Int. 8. While under arrest are not officers prohibited to make an official application or requisition upon a q'master?

Ans. No; I think not.

Int. 9. Do you own or claim to own any part of the land covered by this controversy?

Ans. I do not.

Int. 10. Did you ever claim to own any?

Ans. I never did; I have said I might have claimed as well as anybody.

Int. 11. Did you have made to you or to any person for you any

deed, bond, conveyance, or agreement whatsoever to any portion of the land in controversy?

Ans. No, sir.

Int. 12. Did you ever bid upon any at any sale?

Ans. No. Ten years ago, for a few months, I made a lease of some land and tenements from the Hudson Bay Company.

Int. 13. In your reply to a question by Mr. Holbrook you
612 have stated that an arrangement was made with the H. B. Company for the church, as you supposed, for the use of Leiut. Denman. Did you make the arrangement, whatever it was?

Ans. My impression is that I did.

Int. 14. Will you swear positively that you did?

Ans. Well, whether I did it in person or by some one of my agent-, I consider that I did it myself. My impression is I made the arrangement, but it may have been done by one of my agents.

Int. 15. Was there any written agreement about the matter or have you any papers in your possession concerning the same?

Ans. A voucher was taken and filed with my accounts, but the retained copies of those accounts are not with me.

Int. 16. Where are they?

Ans. The copy of the accounts is in the Treasury Dep't at Washington, and the duplicates were left by me in Denmark, in the State of Maine. The matter may have been the subject of correspondence, but I recollect nothing now; I don't recollect of anything on paper except the voucher when the arrangement was made, or thereabouts.

Int'y 17. When you state that the H. B. Co. hired chaplains do you mean to say that you have any personal knowledge of the hiring of any Catholic priest by the company at Vancouver?

Ans. Nothing more than from representation.

Int. 18. Was such representation ever made to you by any Catholic priest?

Ans. No; I think not.

613 Int. 19. Towards what point of the compass does the Catholic church edifice front?

Ans. Towards the south, or very nearly.

Int'y 20. On which part of the church edifice is the small house you have spoken of?

Ans. The one as occupied by Lt. Denman was on the east side.

Int'y 21. Did you ever know or hear of any church services being held in that small house?

Ans. I presume so.

Int'y 22. Do you know so of your own knowledge?

Ans. Well, if you will state more particularly, I will be able to answer you. I never heard of mass being said there. My answer must be indeffinite.

Int'y 23. Before your return to Vancouver, in 1856, did you not know that on the north end of the building there was an addition put up?

Ans. It's possible there may have been. I can't say that I know it.

(Signed) RUFUS INGALLS,
Capt. A. Q. M., U. S. A.

(Endorsed:) (29.) Affidavits of F. H. Ramsey, Lloyd Brooks, & Rufus Ingalls.

614 [Endorsed:] In the district court of the second judicial district of Washington T'y, holding terms at Vancouver. The Corporation of the Catholic Bishop of Nesqually, &c., plaintiff, *vs.* The United States *et als.*, defendants. Certified copies of affidavits of Frederick H. Ramsey, Lloyd Brooks, & Rufus Ingalls. Plaintiff's Documentary Evidence "K." W. Byron Daniels, referee.

615 Examined. J. M. W. D. S. R. A. W. H. W. D. T.

DEPARTMENT OF THE INTERIOR,
GENERAL LAND OFFICE,
WASHINGTON, D. C., *June 4th*, 1887.

I, Wm. A. J. Sparks, Commissioner of the General Land Office, do hereby certify that the annexed copies of instructions addressed to James Tilton, U. S. surveyor general, at Olympia, Washington Territory, on September 29th, 1859, and December 19th, 1859, respectively, in relation to the "St. James Catholic mission claim," are true and literal exemplifications from the records of this office.

In testimony whereof I have hereunto subscribed my [SEAL.] name and caused the seal of this office to be affixed, at the city of Washington, on the day and year above written.

WM. A. J. SPARKS,
Commissioner of the General Land Office.

Duplicate, vol. 3, page 333.

616 TERRITORY OF ——:

Notification to the Surveyor General of Oregon of Settlement of Public Lands not yet Surveyed.

Pursuant to the act of Congress approved on the 14 day of February, 1853, entitled "An act to amend an act entitled An act to create the office of surveyor general of the public lands in Oregon, and to provide for the survey and make donations to settlers of the said public lands:"

I, William Ryon, a married man, of Clarke county, in that part of the Territory of Oregon now established as the Territory of Washington, hereby give notice of my claim to a donation of 640 acres of land, particularly bounded and described as follows:

Beginning at the east corner of the Fort Vancouver location near a cottonwood tree, thence west 80.00 chains with the meanders of the Columbia river; thence north 80.00 chains; thence west 80.00 chains; thence south 80.00 chains to the Columbia river, the place

of beginning, as appears by the annexed papers, signed Geo. S. Barnard, clerk of probate, Clarke county, O. T.

Dated 22 March, 1852.

Oregon City, 16 Aug't, 1853.

(Signed) WILLIAM RYAN.

617 *Affidavit of Settlers on Unsurveyed Lands, Claiming under the 4th Section of Act of 27th September, 1850.*

William Ryon, of Clarke county, in the Territory of Washington, being first duly sworn, says that he is a white settler on the public lands in that part of Oregon now established as the Territory of Washington, and that he arrived in Oregon on the 12th day of November, 1845, and was a resident thereof on and before the first day of December, 1850; that he is an alien, having made his declaration of intention to become a citizen of the United States on the 4th February, 1851, as appears by the annexed certificate from James C. Strong, clerk of the district court of the United States for the 3rd judicial district in the Territory of Oregon, dated 4th February, 1851, and that he was born in Ireland in the year 1812; that he has personally resided upon and cultivated that part of the public lands in that part of Oregon now established as the Territory of Washington, perticularly described in the annexed notification to the surveyor general of Oregon, continuously from the 12th day of October, 1849, to the 16th day of August, 1853, and he further says that he is intermarried with Susan Ryan, his wife, and that he was legally married to her on the 26th day of January, 1848, in Clackamas county, in Oregon.

(Signed) WILLIAM RYON.

Subscribed and sworn to before me this 16th day of August, 1853, in Oregon City, Oregon.

(Signed) JNO. B. PRESTON,
Surveyor General of Oregon.

618 *Proof of Commencement of Residence and Cultivation on Land not yet Surveyed.*

Joseph Petrain, of Clarke county, in the Territory of Washington, being first duly sworn, says that he is in no way interested in the tract of land claimed as a donation by William Ryon and particularly described in the annexed notification to the surveyor general of Oregon; that he is personally acquainted with said William Ryon and knows that he has personally resided upon and cultivated said tract of land continuously from the — day of October, 1849, to the 16th day of August, 1853.

(Signed) JOSEPH PETRAIN.

Subscribed and sworn to before me this 16th day of August, 1853, in Oregon City, Oregon.

(Signed) JNO. B. PRESTON,
Sur. Gen'l of Oregon.

William Dolan, of Clarke county, in the Territory of Washington, being first duly sworn, says that he is in no way interested in the *part* of land claimed as a donation by Wm. Ryan and particularly described in the annexed notification to the surveyor general of Oregon; that he is personally acquainted with said Wm. Ryon and knows that he has personally resided upon and cultivated said tract of land continuously from the — day of Oct., 1849, to the 16th day of August, 1853, in Oregon City, Oregon.

(Signed) WILLIAM DOLAN.

Subscribed and sworn to before me this 16th day of Aug't, 1853, in Oregon City, Oregon.

(Signed) JNO. B. PRESTON,
Sur. Gen'l of Oregon.

619 *Affidavit of Witness for a Settler Claiming Unsurveyed Lands as a Married Man.*

William Dolan, of Clarke county, in the Territory of Washington, being first duly sworn, says that he is personally acquainted with Wm. Ryan, the person who claims a donation right to the tract of land described in the annexed notification to the surveyor general of Oregon, and Susan Ryon, his wife; that he has known them to live together as man and wife from the — day of ——, 1849, to the 16th day of August, 1853, and that they are and were reputed by their neighbors as such during said period.

(Signed) WILLIAM DOLAN.

Subscribed and sworn to before me this 16th day of August, 1853, in Oregon City, Oregon.

(Signed) JNO. B. PRESTON,
Sur. Gen'l of Oregon.

U. S. LAND OFFICE,
VANCOUVER, W. T., *October 3rd*, 1887.

I hereby certify that the within and foregoing is a true and correct copy of the notification and final proofs made on the Wm. Ryon donation land claim as the same appears of record in this office.

W. S. AUSTIN, *Register.*

[Endorsed:] In the district court of the 2nd judicial district of Washington Territory, holding terms at Vancouver. The Corporation of the Catholic Bishop of Nesqually, &c., plaintiff, *vs.* The United States *et als.*, defendants. Certified copy of the notification, &c., of Wm. Ryon. Plaintiff's Documentary Evidence "M." W. Byron Daniels, referee.

620 The United States of America to all to whom these presents shall come, Greeting:

Whereas there has been deposited in the General Land Office of the United States a certificate, numbered five, of the register and

receiver at Vancouver, Washington Territory, whereby it appears that under the provisions of the act of Congress approved the 27th day of September, 1850, entitled "An act to create the office of surveyor general of the public lands in Oregon and to provide for the survey and to make donations to settlers of the said 'public lands'" and the legislation supplemental thereto, the claim of William Ryon and his wife, Susannah Ryon, of Clarke county, Washington Territory, notification No. 337, has been established to a donation of one section or six hundred and forty acres of land, and that the same has been surveyed and designated as claim No. 39, being parts of sections 25, 26, 35, and 36, of township 2 north, of range 1 east, according to the official plat of survey returned to the General Land Office by the surveyor general, being bounded and described as follows:

Beginning at a point on the north bank of Columbia river, ten chains and four links west and twenty-seven chains and sixty-one links south of the quarter section post between said sections 26 and 35, running thence north 53 chains and 53 links; thence north twenty-two degrees and forty-three minutes and thirty seconds east eighteen chains and three links; thence east seventy chains
621 and seventeen links; thence south eighty-two (82) chains and ninety-six links; thence south eighty degrees west twenty-seven chains and fifty links; thence south seventy-five degrees west four chains and fifty links; thence north eighty-five degrees west six chains; thence north sixty-eight degrees west twenty-six chains, and thence north sixty-one degrees west seventeen chains and fifty links to the place of beginning in the district of lands subject to sale at Vancouver, Washington Territory, containing six hundred and thirty-three acres and twenty-nine hundredths of an acre; Now, know ye that the United States of America, in consideration of the premises and in conformity with the provisions of the act aforesaid, have given and granted, and by these presents do give and grant, unto the said William Ryon and to his heirs the west half, and unto his wife, the said Susannah Ryon, and to her heirs the east half, of the tract of land above described; to have and to hold the said tract, with the appurtenances, unto the said William Ryon and his wife, Susannah Ryon, and to their heirs and assigns forever, their respective portions as aforesaid.

In testimony whereof I, Rutherford B. Hays, President of the United States, have caused these letters to be made patent and the seal of the General Land Office to be hereunto affixed.

Given under my hand at the city of Washington this 11th
622 day of December, in the year of our Lord one thousand eight hundred and seventy-nine, and of the Independence of the United States the one hundred and fourth.

By the President:

R. B. HAYES,
By WM. H. CROOK, *Secretary.*

[Seal of the General Land Office.]

Recorded vol. 3, page 363.

S. W. CLARK,
Recorder of the General Land Office.

Rec'd for record Feb'y 20th, 1888, at 12 o'clock m., and recorded at request of Wm. Ryon, Jr.

JAMES A. SNODGRASS,
County Auditor.

TERRITORY OF WASHINGTON, } ss:
County of Clarke, }

I, James A. Snodgrass, do hereby certify that I am the duly elected, legally qualified, and acting auditor and *ex officio* recorder and legal custodian of the records of Clarke county, Washington Territory, and that the annexed copy of patent from the United States to Wm. Ryon and Susannah Ryon, his wife, is a full, just, and true copy of the original now of record in my office; that I have carefully compared the said annexed copy of the original record, and that it — a just, full, and true transcript of said original record and of the whole thereof, as the same appears of record in Book "U," at page 200, of Patent Records now on file in my office at Vancouver, Clarke
623 county, Washington Territory.

In testimony whereof I have hereunto set my hand and affixed my official seal this 20th day of February, 1888.

[SEAL.]

JAMES A. SNODGRASS,
Auditor of Clarke County, W. T.

(Endorsed:) Certified copy of patent United States to William Ryon and Susannah Ryon. In the dist. court, 2nd jud. dist. at Vancouver, W. T. The Corporation of the Catholic Bishop of Nesqually, pl'ff, *vs.* The United States *et als.*, def'ts. Certified copy of the patent to the Ryan D. L. C. Plaintiff's Documentary Evidence "N." W. Byron Daniels, referee.

624 TERRITORY OF WASHINGTON:

Notification to the Surveyor General of Oregon of Settlement on Public Lands Not Yet Surveyed.

Pursuant to the act of Congress approved on the 14th day of February, 1853, entitled "An act to amend an act entitled 'An act to create the office of surveyor general of the public lands in Oregon and to provide for the survey and make donations to settlers of the said public lands.'" I, Esther Short, widow of Amos M. Short, now deceased, late of Clarke county, in that part of the Territory of Oregon now established as the Territory of Washington, hereby give notice of my claim to a donation of six hundred and forty acres of land, particularly bounded and described as follows:

Beginning at a Balm of Gilied tree about 16 inches in diameter on the northern bank of the Columbia river, about 60 yards below the Salmon house, so called, of the Hudson Bay Company, at Vancouver, thence due north 104 chs. (of 4 poles each) and 25 links to a red fir tree 4 inches in diameter—witness a red fir 12 inches diameter N. 51 degrees, W. 14 links—thence due west 80 chains to a red fir tree 9 inches diameter—witness trees red firs, 10 in. D., S.

43 degrees 3 minutes 42 seconds; 8 in. D., N. 78¼ degrees, W. 74—thence south 55 chains 75 links to a Balm of Gilíod tree 40 inches diameter, marked A. M. S., on the bank of said Columbia
625 river—witness a hawthorn tree 10 inches diameter N. 35 degrees, W. 24 links—thence following the shore of the Columbia river up stream to the place of beginning, and I refer to the survey and plat of said land hereto annexed. I give this notice on behalf of myself, as widow, and of Curtis F. Short, aged 22 years on the 17th day of October last, now in Texas; Jerusha, now married to Andrew Bolen and aged 21 on 7th of August instant, now of said county; Dusella Short, aged 19 on 15th January last; Amos C. Clarke Short, aged 18 on 4th April last.

Affidavit of Settlers on Unsurveyed Lands Claiming Under the 4th Section of Act of 27th September, 1850.

Esther Short, of Clarke county, Washington Territory, widow of Amos M. Short, deceased, late of said Clarke county, in the Territory of Washington, being first duly sworn, says that Amos M. Short was a white settler on the public lands in that part of Oregon now established as the Territory of Washington, and that he arrived in Oregon on the last day of December, 1845, and was a resident thereof on and before the first of December, 1850; that he was a native-born citizen of the United States, and that he was born in Figa, Pennsylvania, in the year 1810; that he has personally resided upon and cultivated that part of the public lands in that part of Oregon now established as the Territory of Washington, perticularly described in the annexed notification to the surveyor general of Oregon, continuously from the 8th day of March, 1848, to the 19th day of January, 1855, the time of his death, and *he*
626 further says that he intermarried with Esther Clarke, this deponent, his wife, and that he was legally married to her on the 22nd day of November, A. D. 1829, in Tioga county, in Pennsylvania.

ESTHER SHORT.

Subscribed and sworn to before me this 26th day of August, 1853, in the county of Clarke, in said Territory of Washington.

Witness my hand and private seal, there being no seal
[SEAL.] of said court, at the place and on the day above written.

JAMES C. STRONG,
Clerk of the U. S. District Court within and for said County and Territory.

Proof of Commencement of Residence and Cultivation on Land Not Yet Surveyed.

John C. Allman, of Clarke county, in the Territory of Washington, being first duly sworn, says that he is in no way interested in the tract of land claimed as a donation by Esther Short, widow, and the heirs of Amos M. Short, deceased, and particularly described in the annexed notification to the surveyor general of Ore-

gon; that he is personally acquainted with said Amos M. Short, and knows that he has personally resided upon and cultivated said tract of land continuously from the 8th day of March, 1848, to the 19th day of January, 1853; at which last date said Amos M.
627 Short, deceased, and said Esther Short has since resided upon and cultivated said tract of land to date.

JOHN C. ALLMAN.

Subscribed and sworn to before me this 26th day of August, 1853, in the county of Clarke, in the Territory of Washington.

Witness my hand and private seal, there being no offi-
[SEAL.] cial seal, at the place and on the day above written.

JAMES C. STRONG,
Clerk of the said U. S. Dist. Court within and for said County and Territory.

Henry Allman, of Clarke county, in the Territory of Washington, being first duly sworn, says that he is in no way interested in the tract of land claimed as a donation by Esther Short, widow, and the heirs of Amos M. Short, deceased, and particularly described in the annexed notification to the surveyor general of Oregon; that he was personally acquainted with said Amos M. Short, and knows that he has personally resided upon and cultivated said tract of land continuously from the 8th day of March, 1848, to the 19th day of January, 1853; at which last date said Amos M. Short, deceased, and said Esther Short has since resided upon and cultivated said tract of land to this date.

HENRY ALLMAN.

Subscribed and sworn to before me this 26th day of August, 1853, in the county of Clarke and Territory of Washington.

Witness my hand and private seal, there being no offi-
[SEAL.] cial seal, at the place and on the day above written.

JAMES C. STRONG,
628 *Clerk of the U. S. Dist. Court within and for said County and Territory.*

Affidavit of Witness for a Settler Claiming Unsurveyed Lands as a Married Man.

John C. Allman, of Clarke county, in the Territory of ——, being first duly sworn, says that he was personally acquainted with Amos M. Short, deceased, the person who claims a donation right to the tract of land described in the annexed notification to the surveyor general of Oregon, and Esther, his wife; that he has known them to live together as man and wife from the 1st day of December, 1847, to the 19th day of January, 1853, the time of the death of deceased, and that they are and were reputed by their neighbors as such during said period.

JOHN ALLMAN.

Subscribed and sworn to before me this 26th day of August, 1853, in the county of Clarke and Territory of Washington.

Witness my hand and private seal, there being no official seal, at the place and on the day above written.

JAMES C. STRONG,
Clerk of the U. S. Dist. Court within and for said County and Territory. [SEAL.]

UNITED STATES LAND OFFICE,
VANCOUVER, W. T., *October* 3, 1887.

I hereby certify that the attached and foregoing is a true and correct copy of the notification of final proofs made on the donation land claim of Amos M. Short and Esther Short as the same appears of record in this office.

W. S. AUSTIN, *Register.*

629 (Endorsed:) In the district of the 2nd judicial dist. of Washington Ter'y, at Vancouver, W. T. The Corporation of the Catholic Bishop of Nesqualiy, plaintiff, *vs.* The United States *et al.*, defendants. Certified copy of notification and proof D. L. C. Amos M. & Esther Short. Plaintiff's Documentary Evidence "O." W. Byron Daniels, referee.

The United States to Short, A. M. & Esther.

The United States of America to all to whom these presents shall come, Greeting:

Whereas there has been deposited in the General Land Office of the United States a certificate, numbered two hundred and seventy-five, of the register and receiver at Vancouver, Washington Territory, whereby it appears that, under the provisions of the act of Congress approved the 27th day of September, 1850, entitled "An act to create the office of surveyor general of the public lands in Oregon and to provide for the surveyor and to make donations to settlers of the said public lnads and the legislation supplemental thereto, the claim of Amos M. Short and his wife, Esther Short, of Clarke county, Washington Territory—

630 Notification No. 446 has been established to a donation of one section or six hundred and forty acres of land, and that the same has been surveyed and designated as claim No. 51, being parts of sections 21, 22, 27, and 28, in township 2 north of range 1 east, according to the official plat of survey returned to the General Land Office by the surveyor general, being bounded and described as follows, to wit:

Beginning at a point 2 chains and 8 links east and 25 chains and 68 links north of the quarter-section corner on the line between said sections 21 and 28, and running thence south 55 chains; thence south 48 degrees and 15 minutes east 28 chains, thence south 58 degrees and thirty minutes east 16 chains, thence south 72 degrees east 2 chains and 90 links, thence south 66 degrees east 39 chains, thence south 43 degrees and 30 minutes east three chains, thence south 60 degrees east 5 chains and 90 links, thence north 103 chains and fifty links, and thence west 80 chains and 50 links to the place

of beginning, in the district of lands subject to sale at Vancouver, Washington Territory, containing six hundred and sixty-one acres:

Now, know ye that the United States of America, in consideration of the premises and in conformity with the provisions of the act aforesaid, have given and granted, and by these presents do give and grant, unto the said Amos M. Short and to his heirs the
631 west half and unto his wife, the said Esther Short, and to her heirs the east half of the tract of land above described;

To have and to hold the said tract, with the appurtenances, unto the said Amos M. Short and his wife, Esther Short, and to their heirs and assigns forever, their respective portions as aforesaid.

In testimony whereof I, Ruthford B. Hays, President of the United States, have caused these letters to be made patent and the seal of the General Land Office to be hereto affixed.

Given under my hand, at the city of Washington, this thirtyeth day of October, in the year of our Lord one thousand eight hundred and seventy-seven, and of the Independence of the United States the one hundred and second.

By the President:

[Seal of General Land Office.]

R. B. HAYES,
By B. L. LANG, *Secretary.*
S. W. CLARKE,
Recorder of the General Land Office.

Recorded vol. 3, page 331.
Filed and recorded October 23, 1879.

CHARLES BROWN,
County Auditor.

632 TERRITORY OF WASHINGTON, } *ss:*
County of Clarke, }

I, James A. Snodgrass, do hereby certify that I am duly elected, legally qualified, and acting auditor and *ex officio* recorder and legal custodian of the records of Clarke county, Washington Territory, and that the annexed copy of patent from the United States to Amos M. Short and Esther Short is a full, just, and true copy of the original now of record in my office; that I have cerefully compared the said annexed copy with the original record, and that it is a just, true, and full transcript of said original record and of the whole thereof as the same appears of record in Book O, at page 73, of Deed Records now on file in my office at Vancouver, Clarke county, Washington Territory.

In testimony whereof I have hereunto set my hand and affixed my official seal this 6th day of February, 1888.

[SEAL.] JAMES A. SNODGRASS,
Auditor of Clarke County.

(Endorsed:) In the district court of the 2nd jud. dist. of Washington Ter'y, holding terms at Vancouver. The Corporation of the

Catholic Bishop of Nesqually, &c., plaintiff, *vs.* The United
633 States *et als.*, defendants. Certified copy of patent to Amos M. & Esther Short. Plaintiff's Documentary Evidence "P." W. Byron Daniels, referee.

UNITED STATES LAND OFFICE,
VANCOUVER, WASH. TER., *October 14th*, 1887.

Don. certificate of William Ryan, No. 5, not. No. 337. In sections 25, 26, 35, and 36, t'p. 2 N., R. 1, E., Will. Mer. Amended June 30, 1879, containing 633.29 acres. Patented December 11th, 1879; recorded vol. 3, page 363.

Don. certificate No. 275, not. No. 446, of the heirs-at-law of Amos M. and Esther Short (his wife), both deceased.

In sections 21, 22, 27, & 28, t'p. 2 N., R. 1 E., Will. Mer., 661 acres. Patented Oct. 30, 1877; recorded vol. 3, page 331.

We hereby certify that the foregoing transcripts of the don. claims of William Ryan and the heirs-at-law of Amos M. & Esther Short are true and correct as the same appears on the tract book & records of this office.

W. S. AUSTIN, *Register.*
JOHN O'KEANE, *Receiver.*

(Endorsed:) In the district court of the 2nd jud. dist. of W. T., at Vancouver. The Corporation of the Catholic Bishop of Nesqually, plaintiff, *vs.* The United States *et al.*, defendants. Certified entries in tract books at U. S. land office, Vancouver, W. T. Plaintiff's Documentary Evidence "Q." W. Byron Daniels, referee.

634 In the Dist. Court of the 2nd Judicial District of Washington Territory, Holding Terms at Vancouver.

THE CORPORATION OF THE CATHOLIC BISHOP OF NESQUALLY, in Washington Territory, Plaintiff,
vs.
JOHN GIBBON, T. M. ANDERSON, R. T. YEATMAN, and THE UNITED STATES, Defendants.

It is hereby stipulated between the plaintiff above named, by Whalley, Bronaugh & Northuf, its attorneys, and the defendants above named, by W. H. White, United States attorney for Washington Territory and attorney for said defendant, that the letter written in the French language and hereunto attached is truly and correctly translated into English by the letter written in the English language and hereunto attached, and that Alexandre Guasco, the writer of said letter in the French language, is the secretary of the Central Council of Paris of the Society for the Propogation of the Faith, and that said Alexandre Guasco would, if examined under oath as a witness in the above-entitled action, depose and testify that the matters certified to by him as such secretary in said letter are true copies from the record, and that the columns of figures contained in said letter are a correct statement from the

records and books of said society, of which he is the lawful custodian, showing the amount of money as appears from said
635 books which was supplied and furnished by said society for the aid and support of the Catholic church and faith in Oregon for the years commencing A. D. 1844 and ending A. D. 1845, inclusive, and that said letter or said translation thereof may be read in evidence on the trial of this cause with like force and effect as if the matter therein contained were the sworn deposition and testimony of said Alexandre Guasco concerning the same and relating to the things certified to by him in said letter.

WHALLEY, BRONAUGH & NORTHUF,
Attorneys for Plaintiff.

W. H. WHITE,
U. S. Attorney for Washington Territory and Attorney for Defendants.

Translation of the Letter of the Secretary of the Society of the Propogation of the Faith.

PARIS, *June 11th*, 1887.

Work of the Propogation of the Faith in favor of foreign missions of the two mouds (worlds), central councils of Paris & Lyons.

The correspondence must be addressed 22 Cassette street.

636 MY LORD:—We have received your letter dated the 22nd of May, last, asking us to send you the detail of the sums allowed to Mgr. Norbert Blanchet, first vicar apostolic then archbishop of Oregon City, I hasten to forward to you consequently, in order to answer your desire, the list of allocations made by the central councils, of the work of the propogation of the faith to the vicarrate, then to the archdiocese, of Oregon City, from 1844 to 1885.

1844	16,000 francs.	Brought forward:	
1845	23,000	1866	19,000
1846	54,560	1867	19,000
1847	34,400	1868	19,000
1848	16,000	1869	15,000
1849	32,000	1870	6,000
1850	28,000	1871	14,000
1851	26,300	1872	16,000
1852	28,000	1873	14,000
1853	30,000	1874	12,000
1854	25,000	1875	10,000
1855	20,000	1876	10,000
1856	15,000	1877	10,000
1857	12,000	1878	10,000
1858	12,000	1879	15,000
1859	20,000	1880	15,000
1860	15,000	1881	25,000
1861	10,000	1882	25,000

1862	20,000	1883	25,000
1863	20,000	1884	20,000
1864	20,000	1885	15,000
1865	20,000		

Total of sums allowed (1844–1885) 811,470 francs.

To Mgr. Aigidius, Junger, bishop of Nesqually.

I certify the exactitude of each of these sums above indicated such as they are recorded in our books, (registers). If it would
637 occur that for certain years, the amount recorded in the annals, would be larger than that, which I give you, this would come altogether simply from special gifts, which would have been added to the amount of the allocation.

Deign my lord, to accept the homage of profound respect with which I have the honor to be your lordship.

Very humply and all devoted servant, the secretary of the central council of Paris,

ALEXANDRE GUASCO.

Propogation of the Faith, Paris, 22 Cassette street.

(Endorsed:) In the dist. court, 2nd jud. district of W. T., at Vancouver. The Corporation of the Catholic Bishop of Nesqually, plaintiff, *vs.* The United States *et als.*, defendants. Letter and translation of same from Alexandre Guasco to Aegidius Junger. Plaintiff's Documentary Evidence "R." W. Byron Daniels, referee.

(The end of volume 5.)

638 CATHOLIC BISHOP OF NESQUALLY
vs.
THE UNITED STATES *et al.*

Referee's Report, Vol. 6.

Defence.

Filed November 12th, 1888.

A. REEVES AYRES, *Clerk*,
By W. S. JOHNSON, *Deputy*.

639 SIXTH DAY, *August 6th*, 1887.

The same parties, by their attorneys, appeared to-day, pursuant to their adjournment of yesterday; the plaintiff not having rested his case, the defendants, by consent, introduced the following witnesses:

Mrs. LOUISA CARTER, a witness for the defendants, being first duly sworn, testified as follows:

Ques. 1. What is your name, age, and place of residence?

Ans. Louisa Carter; I am 37 years old; reside in Vancouver, Washington Territory.

Ques. 2. How long have you resided here?

Ans. I was born here and have always resided here, except about three years.

Ques. 3. What were your father's and mother's names?

Ans. My father's name was Thomas Frederick Bier and my mother's name was Elizabeth Bier. They are both dead.

Ques. 4. Do you know the location of the old Catholic church up in the military reservation at Vancouver?

Ans. I do.

Ques. 5. Did you ever attend that church?

Ans. I have been there.

Ques. 6. Who was the first priest that you recollect of seeing at that church and holding services there?

(Objected to as immaterial.)

Ans. Father Bronillette.

640 It is now agreed by and between counsel for the respective parties that it shall be sufficient to note when any question propounded to any witness is objected to the words "objected to" and no more may be noticed, and all legal objections may be urged to such questions and the answer, save that it was a leading question, which objected, if taken, should in addition be specially noted.—W. Byron Daniels, referee.

Ques. 7. Have you any recollection of the persons you saw here who represented the Hudson Bay Company and who were living here?

Ans. Yes; I remember some of the employers. I remember a man named Ogden, and Taite.

Ques. 8. What schools were here for the education of children that you first recollect?

(Objected to.)

Ans. The first school that I went to was in the garrison. It was taught by a soldier.

Ques. 9. About how old were you then?

Ans. Five or six years old.

Ques. 10. Were there any other schools here at that time?

(Objected to.)

Ans. I don't remember.

Ques. 11. What recollection, if any, have you about the priests having school here for the education of Indian children?

(Objected to.)

641 Ans. I don't know anything about that. I was very young.

Ques. 12. What schools have they had here for the education of Indian children since you can recollect?

Ans. I don't know. They had the convent and the college. The first I recollect was about the year 1862. I don't know whether or not they were for Indian children. I know Indian children go

there, but I could not tell whether they were for that purpose or not.

Ques. 13. Who taught the children?

Ans. The Sisters of Charity.

Ques. 14. Was there preaching here in the Catholic church from the time you can recollect?

(Objected to.)

Ans. Yes, sir.

Ques. 15. Who was the preacher that you first recollect?

Ans. Father Bronilette.

Ques. 16. Who was he paid by?

Ans. I couldn't tell you. I have heard my mother and other people talk that they were hired by the Hudson Bay Company.

(Objected.)

17 Ques. Who was it that you heard talking with your mother?

Ans. Father Bronilette and my mother had a quarrel about surveying the claim here. She had a claim here and was about to throw his compass into the river, so she told me.

Ques. 18. What was it you heard your mother and Father Bronilette say as to his employment here to preach?

(Objected.)

642 Ans. I did not hear it; I was too young. I was told by my mother before she died about the difficulty with the priest. My mother died in 1876.

MRS. LOUISA CARTER.

Defendants next introduced as a witness in their behalf WILLIAM H. DILLON, who, being first introduced, testified as follows:

Ques. 1. State your name, age, place of residence, and occupation.

Ans. My name is William H. Dillon; I am 69 years old; I reside in Clarke County, Washington Ty.; I am a farmer and stock raiser.

Ques. 2. What year did you come to this country?

Ans. In 1847.

Ques. 3. Where did you locate when you came here?

Ans. For the first three years I was floating around. The first place I stopped at was Linton, on the Willamette, the 24th day of December, 1847, and from there in March, 1848, I went to Sanoris island, which is 7 miles below Portland, on the Willamette.

Ques. 4. Where was the place you traded during the first year?

Ans. At Fort Vancouver and Portland. The first trading was done at Fort Vancouver in 1847.

Ques. 5. Who was it you traded with here at that time?

Ans. The Hudson Bay Company. Everything here was owned by the Hudson Bay Company, as far as we knew.

Ques. 6. Were there many settlers here in 1847?

Ans. No; only a few in the vicinity of the Columbia. They were very scattering.

643 Ques. 7. Who was in charge for the Hudson Bay Company in 1847?

Ans. George Douglass was the chief factor. James Graham was the chief clerk of the mercantile department.

Ques. 8. Where did you finally settle?

Ans. In Clarke county, five and a half miles below here; below the mouth of the Willamette, at Dillon's landing.

Ques. 9. What year?

Ans. October 6th, 1850.

Ques. 10. Where have you remained since then?

Ans. I remained on that place until 1872 and then moved back three and one-half miles northwest of Vancouver, and have lived there since then.

Ques. 11. Did you ever hold any position in the county of Clarke; and, if so, what?

Ans. Yes; I held the position of county commissioner for, I believe, nine years. I was first elected in 1852.

Ques. 12. When was the county of Clarke organized?

Ans. I don't know. The county seat of Clarke county was at Vancouver in 1852. The court was held inside the fort of the Hudson Bay Company. I attended court there three different times, and the place was generally known as Vancouver in 1852.

Ques. 13. What was the first name that you heard given to the town or place where Vancouver now is?

(Objected to.)

Ans. Columbia City was the name the town was generally known by or christened.

644 Ques. 14. What buildings were here from 1850 to 1852?

(Objected to.)

Ans. Nothing pertaining to the town; the Hudson Bay Company's were all that were here.

Ques. 15. Did you know a priest by the name of Father Bronilette?

Ans. Yes; I did.

Ques. 16. When did you first know him, and what was he doing here?

Ans. I am not able to give the date. It was quite an early date. He was here in the capacity of a priest. I knew him in that capacity.

Ques. 17. Where and for whom was he preaching?

Ans. I am not aware of his preaching anywhere except at the church at Vancouver. It was generally understood that he was preaching for the Hudson Bay Company; such was the public sentiment.

(Objected to as hearsay.)

Ques. 18. Were there many Indians here in 1847, when you came to the country?

Ans. There was.

Ques. 19. Where were the principal headquarters of the Indians—the land they occupied?

Ans. They were all over the country; they were coming and going all the time, Indian-like. Indians concentrated here, coming and going and trading with the Hudson Bay Company.

Ques. 20. You mingled as far as it was possible, owing to the sparce population, with the settlers who were settling in this country and knew their talk and the affairs of the day?

645 Ans. Yes; I did.

Ques. 21. What do you know of mission work among the Indians here since you came in 1847?

A. Nothing.

Ques. 22. When was it first talked about, if at all, as to the place *were* the old Hudson Bay fort at Vancouver and the surroundings land being a mission station?

(Objected to.)

Ans. I am not able to give date, but it was a long time; some five years after I came here in 1850. By the way of parenthesis let me explain a little. At an early date the Hudson Bay Company established or pretended to establish a claim to the land under treaty stipulating with the United States. They commenced their survey down in the vicinity of Lewis river, on the bank of the Columbia, and run out square from the Columbia; I don't know the distance, but to include all the bottom land; then ran up east so as to include the 4th plain; then ran south to the Columbia river to include the mill plane and a grist and saw mill they had there between the plains and the river. 4th plain is six miles northeast of Vancouver by the road to the edge of the plain, and the plain is about two miles wide. The saw-mill was seven miles up the river, and the grist-mill six miles up the river from Vancouver, and this claim of the Hudson Bay Company included the military reservation and all where the town of Vancouver now is.

646 Ques. 23. Can you state where that survey was made by the Hudson Bay Company?

(Objected to.)

Ans. It was early in 1851. I don't recollect just the time.

Ques. 24. How generally was it known among the settlers and people in this part of the country that the Hudson Bay Company laid claim to the tract of land you have just described?

(Objected to.)

Ans. I am not aware how generally extensive that was known; it was unanimously known by the settlers around Vancouver; we talked of it as the Hudson Bay reservation.

Ques. 25. By "we" whom do you mean?

(Objected to.)

Ans. The American settlers. The company remonstrated about occupying this claim of theirs, but made no effort to enforce it; simply proclaimed it.

Ques. 26. Was it before or after this Hudson Bay Company claim was first talked of that you heard of this being a missionary station?

(Objected to.)

Ans. A number of years after—4 or 5 years after—a long time.

Ques. 27. Was that claim put forward before or after the settlement of the Hudson Bay Company with the United States?

(Objected to.)

Ans. We had no knowledge of a settlement of the Hudson Bay Company with the United States further than the treaty defining the boundaries between England and the United States.

Cross-examination:

647 Ques. 28. In what year was it that you first heard the place where Vancouver now is called Columbia City?

Ans. I can't recollect the year; it was quite an early date; it was before 1850.

Ques. 29. Was it before or after that the Hudson Bay Company laid claim to this territory you have been describing by bounds and remonstrated against settlers occupying it?

Ans. After; it was in 1851.

Ques. 30. Was there any Catholic church building here at Vancouver when you first came here?

Ans. There was.

31 Ques. Is it the same old Catholic church that now stands upon a part of the ground claimed by the United States as a military reservation?

Ans. It is the same, but it has been enlarged and improved, but the old church that was there is still inclosed in it.

Ques. 32. Was it in that old church that Father Bronillette was preaching when you first came here?

Ans. I was never in attendance at church; but such was the understanding.

Ques. 33. Did you see any other Catholic priest or priests here in Vancouver besides Bronillette during the first year after you got here; and, if so, who were they, if you know?

Ans. I have no knowledge of any but Bronillette for a number of years.

648 Ques. 34. Were there many Indians accustomed to assemble here to trade when you first came here?

Ans. There was.

Ques. 35. Do you know whether the priest Bronillette ever preached to or among the Indians during the first year after you reached here?

Ans. I do not.

WILLIAM H. DILLON.

SEVENTH DAY, *August 8th*, 1887.

Present: Same parties as called August 6th, 1887.

Defendants introduce as a witness on their behalf WM. H. GRAY, who, being first duly sworn, testified as follows:

Ques. 1. What is your name, age, place of residence, and occupation?

Ans. William H. Gray; I am 77 years old; I reside at Astoria, Oregon; by occupation I am a mechanic.

Ques. 2. When did you first come to this country?

Ans. September 12th, 1836.

Ques. 3. When did first land at Vancouver?

Ans. September 12, 1836.

Ques 4. How many came with you?

Ans. Dr. Marcus Whitman and his wife, Rev. H. Spalding and his wife, and two Indian boys.

Ques. 5. Where you did come from to Vancouver?

Ans. Utica, New York.

Ques. 6. For what purpose did you come?

649 Ans. To establish a mission in the Nez Perces country. We were sent out by the Boston Board of Missionaries.

Ques. 7. This missionary board consisted of what?

Ans. This board was composed principally of Protestants of the Congregational order.

Ques. 8. How many Protestant missionary stations were there in what now constitutes Oregon, Washington, and Idaho Territories?

(Objected to.)

Ans. There were 3 prominent locations; the 4th one left the country or was driven out of the country.

Ques. 9. Where were these stations located, when, and by whom?

(Objected to.)

Ans. The two first missions, Whitman's and Spalding's, were located—Whitman's, at Waitatpu, in what is now Walla Walla county, near where the city of Walla Walla now is, shortly after our arrival, in the same year; Spalding's, at Lapwoi, among the Nez Perces, in the same year, in what is now Nez Perces county. The other one was located further up the country by Rev. Mr. Smith, a Congregationalist, sent out by the same board, in 1838. The next one was located up near Colville by Rev. Mr. Ells and Rev. Mr. Walker, both sent out by the same board. This one was located in the year 1838.

Ques. 10. Were there any other Protestants missions in this section of the country; and, if so, where were they and who located them?

(Objected to.)

Ans. Yes; Jason Lee, a Methodist, located a mission in the Wil-

lamette valley two years before I came here; the Methodist-
650 established a number of mission stations; they had one at Clatsop, one at Dalles, one at Oregon City; there was another mission of the Congregational order located at Forest Grove; these were a little later.

Ques. 11. Describe what constituted these mission stations. What was done at them relative to dealing with the Indian tribes?

(Objected to.)

Ans. The object and design was to improve the condition of the Indians and to teach them the tenets and doctrines of the Christian religion as held by the sects that sent them out. The first thing done was to build houses—the first one at Wailattu; it was a log house, built with puncheons, after the fashion of the Hudson Bay Company's, covered with boards, straw, and dirt on top.

Ques. 12. Describe generally what constituted a Protestant mission station.

(Objected to.)

Ans. It consisted of a house for the missionary to live in, with its appurtenances, and barns for stock; a mill to saw lumber and to grind flour; school-houses built of logs and made use of them for churches. We covered them all with long grass and dirt.

Ques. 13. What was the character of the instruction given to the Indians?

Ans. The way was to get the most intelligent Indians. The missionary would take his Bible and read a chapter; get his most intelligent Indian and take his subject and read it over to this
651 Indian on Sabbath. He would repeat the same thing with this Indian to the audience; a whole body of Indians would come.

The testimony of Mr. Gray is now, by consent, suspended, and the cross-examination of plaintiff's witness, Peter Poaps, resumed. Subsequently, by consent, adjourned until to-morrow morning at 9 o'clock a. m.

W. BYRON DANIELS, *Referee.*

EIGHTH DAY, *August 9th*, 1887.

Present: Same parties as of yesterday.

The examination-in-chief of WM. H. GRAY continued:

Ques. 14. State, in general terms, what constituted a missionary station in Oregon *ans.* as generally understood and recognized by the settlers and white people in Oregon up to and on the 14th day of August, 1848.

(Objected to.)

Ans. It was customary for all parties in Oregon to select their own location and build their own houses and improvements, including all improvements such as were necessary for farming, *and* etc.

These stations, as connected with the missions, they pursued the same course and had their own improvements. A missionary station was similar to a farm. We found the country unoccupied except by Indians and the Hudson Bay Company and Indian trappers.

652 Ques. 15. What was it the missionaries did, if anything, relative to cultivatine land, instructing the Indians in religion, and farming and instructing the children of Indians at these stations?

(Objected to.)

Ans. They cultivated land and at the same time instructed the Indians in their schools at the stations, teaching them how to farm, and were constantly engaged in their work, and gave the Indians religious instruction of the Protestant denomination.

Ques. 16. What nationality of people were the missionaries in charg- of the Protestant missions and from what country did they come?

Ans. The first were British subjects—the two Lees. Mr. Jason Lee was a British subject, and they both were connected with the Methodist mission from New York city, United States of America. The remainder of the Methodist missionaries were American citizens, from the New York Methodist Missionary Board, and were under Mr. Lee. The rest of the missionaries of the Protestants were from the Boston Board of Missions and were American citizens.

Ques. 17. Were there any Catholic missions or missionaries here in Oregon in 1836, when you came to the country?

Ans. No, sir.

Ques. 18. When did the first Catholic missionaries come and who were they?

Ans. In 1838; Rev. Blanchet and Demers, under the auspices and permission of the Hudson Bay Company.

653 Ques. 19. What point, if any, on the 14th of August, 1848, were these two missionaries occupying and cultivating land?

(Objected to.)

Ans. It is doubtful in my mind whether they cultivated any at all. They migreted or traveled from up here near Salem, at French prairie, and from there to Puget sound. The point from which they migrated is now known as St. Paul.

Ques. 20. Where did these Catholic missionary priests come from?

Ans. From Canada.

Ques. 21. What nationality and whose subjects?

Ans. Two of them were from Belgium, I believe, but I am not positive as to their nationality. Father Blanchet and Demers came from Canada, under the protection of the Hudson Bay Company.

Ques. 22. Did you ever see the Rev. Mr. Demers?

Ans. I have. I met him at the station up at St. Paul or French prairie in 1838, and also here at Vancouver. I frequently saw them passing Walla Walla and saw them here frequently at Vancouver.

Ques. 23. What was their mode of instructing the Indians?

Ans. They traveled over the country mostly. Their permanent location was up the Willamette valley, at French prairie, which is now in Marion county.

Ques. 24. Did you ever see Rev. Mr. Demers at Walla Walla; ans, if so, what was he doing there?

Ans. Yes; I saw him at Walla Walla. I can't state the year. He was catechizing the Indians.

654 Ques. 25. Do you know the location of the military reservation near the town of Vancouver and the location of the town of Vancouver, Clarke county, Washington Territory?

Ans. I do; it was the first place I came to when I came to this country in 1836.

Ques. 26. Who was occupying that place when you came to the country?

Ans. The Hudson Bay Company under Dr. John McLaughlin.

Ques. 27. Who was occupying that place on the 14th day of August, 1848?

Ans. The Hudson Bay Company.

Ques. 28. What were they occupying it for?

Ans. They were collecting *firs* and cultivating for the purpose of their station.

Ques. 29. What were they cultivating, and where?

Ans. They were cultivating around their buildings situated on what is now the military reservation. They had a wheat field up there that we examined. They had quite an extensive garden also. Their fort and buildings were all here.

Ques. 30. Was there any minister of the gospel here when you arrived here?

Ans. Yes; a Mr. Bearver and his wife, of the Episcopal church, brought out from England by the Hudson Bay Company.

Ques. 31. What did Mr. Bearver do?

Ans. I think he attended to his duties as a clergyman and instructing the servants of the company and preaching to the officers and men of the company.

Ques. 32. Where did he preach—in what building?

655 Ans. In a school-house they had here in the stockade.

Ques. 33. Who do you mean by they?

Ans. I mean the Hudson Bay Company.

Ques. 34. Who taught in the school-house, if any one, and who did they teach?

Ans. It was a Mr. Smith, and he taught the children of the servants of the company, who were generally half-breeds.

Ques. 35. How long was that school kept up by the Hudson Bay Co.?

Ans. It must have been a number of years. The children increased in numbers and the company kept up the school.

Ques. 36. What other schools, if any, were here?

Ans. None at all.

Ques. 37. When were the first Catholic schools established here at Vancouver or on this land?

Ans. I cannot bring to mind the date when there was any trans-

fer on the part of the company. I think they, the company, kept up the schools until they left here.

Ques. 38. Was there any church building here in 1836, when you came?

Ans. No, sir.

Ques. 39. How frequently were you here between 1836 and the 14th of August, 1848?

Ans. I was here every year. I frequently came down on business, being the secretary and secular agent of the Protestant mission. I was here at least once a year—sometimes twice—to get out supplies, &c.

Ques. 40. What houses or buildings did the Catholic priests have here from 1836 until 1848?

Ans. They had none to my knowledge.

656 Ques. 41. Who owned and occupied the buildings here during that time?

Ans. The Hudson Bay Company.

Ques. 42. Where did the priests Blanchet and Demers board and lodge when at Vancouver up until the 14th of August, 1848, as far as you observed?

Ans. They occupied the place in the main fort or in the large house in the stockade used for visitors and for men, and they ate in the main room with Dr. McLaughlin; at least there was where I met them.

Ques. 43. About how frequently did you meet Demers and Blanchet here from the time you came until the year 1849?

Ans. I could not give the number, but to the best of my knowledge I met them here several times.

Ques. 44. How did the Hudson Bay Company dispose of the bodies of those who died here at Vancouver?

Ans. They had a place somewhere upon the hill above the water line where the dead were buried. I observed that place in 1836, when I came here. I traveled all over the establishment here for miles.

Ques. 45. How many graves did you observe there in 1836?

Ans. I think at that time about 7 or 8; there may have been more than that.

Ques. 46. Was this place enclosed?

Ans. No; I think not.

Ques. 47. Where did they continue to bury their dead here at Vancouver up to the time the United States troops came here?

Ans. I cannot say.

657 Ques. 48. Did you ever see any other grave-yard here up to that time than the one you speak of?

Ans. No.

Ques. 49. Do you recollect when the United States soldiers came here?

Ans. Yes, but I cannot give the time.

Ques. 50. Where did the Catholic priests on missionary tours usually make their headquarters?

Ans. They usually stopped here at Vancouver, in the fort, and

went from here to other places. Their usual stopping place was here, like everybody else. The Protestant missionaries did the same and occupied places assigned to them by the company. I don't think the company showed any partiality.

Ques. 51. Where was the principal point of arrival and departure of persons, such as missionaries and traders, in this country from the time you arrived in the country until 1849?

Ans. Here at Fort Vancouver.

Ques. 52. How about Indians being allowed to receive instruction from missionaries or priests in the fort or stockade of the Hudson Bay Company?

Ans. There were no instructions to Indians in the fort to my knowledge; they were instructed in their lodges outside.

Ques. 53. What class of Indians were allowed to be instructed inside the fort or stockade?

Ans. I don't think there were any.

Ques. 54. Who were instructed in the fort?

658 Ans. The Indians' wives and half-breed children of the Hudson Bay Companies employers.

Ques. 55. What acts of ownership or dominion did the priests of the Catholic church exercise here at Vancouver, as far as you observed, up to the 14th of August, 1848, other than that exercised by Protestants missionaries?

Ans. I think not; so far as I saw, neither of them exercised any authority.

Ques. 56. How well or generally were you acquainted with the settlers and white people residing in Oregon up until 1849?

Ans. I was generally well acquainted with the people, and personally knew the most of them; both the company and transient persons.

Ques. 57. How generally were you acquainted with the settlers and the location of their land claims?

Ans. Almost personally acquainted with every one.

Ques. 58. When was it first talked of in this country as near as you can recollect, and when did you first hear of the Catholic church claiming the property where the military reservation is at Vancouver?

(Objected to.)

Ans. I did not until after it was occupied by the Government for some time.

Ques. 59. Did you ever have any conversation in the spring of 1838 with any of the employees or factors of the Hudson Bay Company touching the coming of Demers and Blanchet to the country, and who brought them here?

(Objected to.)

659 Ans. Oh, yes; I had a conversation with Mr. Ermitenger, who was the principal trader among the Flathead Indians. I traveled with him; I had a great deal of conversation with him and with the officers of the company. They said that the priests were brought here by the Hudson Bay Company to teach their serv-

ants. I had the whole thing or idea as connected with the company and the priests and the object the company had in bringing them here; it was to counteract the influence of the Protestant missionaries.

Ques. 60. Was it a part of the plan of the Hudson Bay Company through these priests to drive out the American missionaries and prevent the settlement of the country by Americans?

(Objected to.)

Ans. You can't get it out of my head that that was the design, from all I heard and saw and understood.

Ques. 61. Are you the same W. H. Gray who is author of a history of Oregon from 1792 to 1849, drawn from personal observations and authentic information, published at Portland, Oregon, by Harris & Holman, and at San Francisco by H. H. Bancroft & Co., and at New York by the American News Co.—a book which I now hold in my hand, entitled "History of Oregon, by W. H. Gray"?

Ans. I am the author of it.

Cross-examination.

660 Ques. 62. Did you testify as a witness in a contest ordered by the land department to be had before the surveyor general of Washington Territory in regard to establishing the rights and claims of Short's heirs, the citizens of Vancouver, the Catholic Mission of St. James, and the Government of the United States to the land upon which the town of Vancouver and the military reservation and the old Catholic church here are now situated?

Ans. No, sir.

Ques. 63. In what capacity did you first come to Oregon?

Ans. As secular agent of the American Board of Missions, of Boston, Massachusetts.

Ques. 64. That board was a Protestant institution, was it not?

Ans. Yes.

Ques. 65. You have been ever since then a strongly pronounced Protestant, have you not?

Ans. Yes, sir.

Ques. 66. Do you in the book—the History of Oregon—of which you have just admitted the authorship intimate the belief or opinion that the Catholic church or priests or missionaries of the Catholic faith were instrumental in or anywise connected with or responsible for the Whitman massacre or the killing of Dr. Whitman by the Indians?

Ans. I do, as connected with the influence of the Hudson Bay Company.

Ques. 67. Then you must admit of having considerable prejudice as an American citizen against the Hudson Bay Company
661 and its influence here and as a Protestant connected with the Protestant missions here a like prejudice against the Catholic missionaries and their influence here, do you not?

Ans. I have less against the Catholic church and priests than I have against the company. I consider the company the vilest of

the vile. There is a little good among the Roman Catholics, which I am ready to admit.

Ques. 68. How long after you first reached Vancouver before you left here again?

Ans. About two weeks. I went then to Wailatpu mission or Whatmon mission, near Walla Walla.

Ques. 69. What is the distance between that station and Vancouver?

Ans. About 200 miles, probably.

Ques. 70. When did you next return to Vancouver after that?

Ans. The following February, and remained here about ten days and returned back there.

Ques. 71. When were you next in Vancouver again?

Ans. Over a year afterwards.

Ques. 72. Was there any Catholic priest here at that time?

Ans. No.

Ques. 73. Where did you go to when you left here at that time?

Ans. Went back up to the Protestant mission.

Ques. 74. When were you next at Vancouver after that?

Ans. I can't give the date. I visited the States before returning to Vancouver. This was the trip I made with Ermetinger, when I said I traveled with him among the Flatheads. He was trading with the Indians. This was early in 1838. I left him among the Flatheads.

662 Ques. 75. How long did you remain in the States?

Ans. I remained that winter and then returned with reinforcement of missionaries.

Ques. 76. What was your purpose in making that visit to the States?

Ans. To bring reinforcements to the missions.

Ques. 77. When did you first see any Catholic priest at Vancouver?

Ans. Not until they had passed down from Walla Walla to this place and returned up to Walla Walla to *ch*atechise the children there. I first saw them here after they had been to Walla Walla and to Vancouver. I can't tell the year.

Ques. 78. When were you first at the mission established by Spalding at Lapwai, among the Nez Perces Indians?

Ans. In the winter of 1836 I built his house for him before I started to come down here. I built him a house to live in—only the one house.

Ques. 79. Was there any other improvements than that there when you left there?

Ans. No; only that one. The Indians helped saw the boards.

Ques. 80. When were you next back to that mission?

Ans. The next September—the first of September. I went directly to Spalding's mission.

Ques. 81. Was there *a*ver a church built at that mission before 1848; and, if so, when?

Ans. Yes; it was built immediately after arriving there back from the States. I built it myself.

Ques. 82. Were you at that mission in 1848?

Ans. I think not. I lived there to about 1848.

663 Ques. 83. State now what improvements, buildings, and cultivated lands were at the Lapwai mission in August, 1848.

Ans. There was two houses for residence, outhouses, one for vegetables, a saw-mill, and quite a large number of Indian huts, and small patches of ground for cultivation by the Indians. The missionaries had some ground which they cultivated sufficient for their own use. I should say they had 15 or 20 acres of cultivated ground. The Nez Perces were very industrious. They had a church building which was used as a school-house and church. The saw-mill was run by water power.

Ques. 84. How far was that mission from any establishment of the Hudson's Bay Company?

Ans. About 120 miles.

Ques. 85. Did you ask or obtain the consent of the Hudson Bay Co. to establish that mission there?

Ans. No; we had not got educated up to that yet.

Ques. 86. Did the missionaries of any Protestant faith obtain a patent from the Government of the United States to any lands on which that mission was located?

(Objected to.)

Ans. My impression is that they did. I cannot say how much land.

Ques. 87. Including all the improvements of every character at that missionary station at Lapwai, how much land was occupied or covered by those improvements in August, 1848?

Ans. I suppose the Indian reservation occupied a large space of country. I think the improvements would all be included in a

664 quarter section of land. The mills and houses and all would occupy that.

Ques. 88. Were you ever at the mission or location at Colville?

Ans. Yes, sir; I was there 3 times and assisted the missionaries in getting their buildings up.

Ques. 89. How far was that mission from any Hudson Bay Co.'s establishment?

Ans. About 40 miles; that was Fort Colville.

Ques. 90. Did you ask or obtain the permission or consent of the Hudson's Bay Company to establish that mission when you did establish it?

Ans. No; I don't think we did.

Ques. 91. How far was the mission at Walla Walla from the nearest Hudson Bay Co.'s establishment?

Ans. About 25 miles; called Fort Walla Walla.

Ques. 92. Was there any Protestant mission established north of the Columbia river and west of the Cascade mountains in what we now call western Washington Territory prior to 1848; and, if so, how many, and where were they?

Ans. Yes; there was one on Puget sound, near the old Hudson Bay Company's fort; I think there was none others.

Ques. 93. Were you at that Methodist mission at Puget sound prior to 1848?

Ans. No.

Ques. 94. How many Catholic missions were established north of the Columbia and west of the Cascade mountains in what is now western Washington Territory prior to 1848?

Ans. Well, according to their records and statements they must have had 20 or 30, and perhaps more. They call a mission
665 the calling together the Indians and catechizing them in their lodges and catechizing the children and talking with them and exhibiting a picture representing a tree and the priests and the people traveling up the tree and the Protestants falling off of the tree, and books, into a fire, which was underneath the tree, and the Catholics were on top of the tree with their crucifixes.

Counsel for plaintiff moves to expunge all that portion of the answer of the witness not responsive to the question.

Ques. 95. At what place, if any, can you state of your own knowledge that the Catholics ever claimed a mission station in what is now known as western Washington Territory, at which they had no buildings or improvements of any kind, but simply taught the Indians in their lodges?

Ans. I believe they had some station and some buildings and other improvements in some places. I have seen some of their stations in one sence. I know of my own knowledge they claimed mission stations where they had no buildings or improvements, and and in another sence I do not.

Ques. 96. In what sence do you know it?

Ans. From seeing and statements from what I regard as truthful men.

Ques. 97. At what place did you ever see any Catholic priests teaching Indians in their lodges in western Washington Territory, where there was no buildings or improvements of the priest, up to the summer of 1848, but at this place the Catholic church
666 claimed the benefits of the grant of lands to missionary stations?

Ans. I don't know that I have seen them except here at Vancouver; I don't know of such places where they claimed land on that account.

Ques. 98. State whether on page 472 of the book entitled "The History of Oregon," of which you admit yourself to be the author, you use the following language, commenting upon the narratives of Protestantism in Oregon, by Vicar General Bronillette: Dr. Whitman and those about his station had been slaughtered in the most brutal and cowardly manner by a band of Indians that this priest, his bishop, and associates, backed by the consent and influence of the Hudson Bay Company, had brought about through the direct influence of these three men (meaning Joseph Lewis, Joseph Stanfield, and Nicholis Finlay), all of whom knew and consulted with the Indians as to the commission of the crime. And we have the strongest reason to believe that this priest and his party were by

their conversation, instructions, and direct teachings adding their influence and approval to that horrid transaction; besides, when the crime is committed, we find the same band of fur traders and priests protecting, shielding, advising, and assisting the murderers to the utmost of their power and influence, both in the country and in their foreign correspondence.

Ans. I wrote it, of course, sir; I had the testimony before me when I wrote it and have it yet.

Ques. 99. Was that testimony under oath?

Ans. Yes, a part of it; you will see it in that book. They,
667 the witnesses, were sworn and their statements taken by office of justices of the peace of the provisional government of Oregon.

Ques. 100. When were you first at the place now known as St. Paul's Catholic mission, on the French prairie, in Marion county, Oregon?

Ans. At that place I have never been. The place that was first built is now occupied by other parties. I have been there. I was there, I think, in 1840, or about the time they were organizing the provisional government. I was visiting all around and electioneering for the provisional government, and I was at their school there.

Ques. 101. About how many settlers were there at that time (1840) and what was their nationality?

Ans. In the French settlement, about 40. There was settlers there who took part in the provisional government; of this class of settlers, say 20; they were servants of the Hudson Bay Company.

Ques. 102. Of what religious faith were those French settlers?

Ans. Mostly Catholics.

Ques. 103. Of what religious faith were those who took part in the provisional government who were servants of the Hudson Bay Company?

Ans. Some were French Catholics. They were servants of the Co., and some were independant, and some were American citizens who had never been in the employ of the Hudson Bay Company; of these there were about ten.

Ques. 104. Was there any Catholic church building at that time?

668 Ans. No; there was not.

Ques. 105. Was there any Catholic church building in that French settlement or the French prairie, in Marion county, Oregon, in 1840?

Ans. Yes; I saw one; it was then being built.

Ques. 106. Do you know or did you hear when you first came here, in 1836, or between that and 1838, anything about those French settlers on the French prairie having gotten up a petiti-n to the Catholic bishop in Canada to have him send a priest or priests here for their benefit?

Ans. I know that fact by Dr. McLaughlin.

Ques. 107. Did you know or hear from Dr. McLaughlin or any one else of those French Catholics at French prairie making up a

subscription or contributing money to assist in bringing a priest or priests here?

Ans. Yes; I knew that from Dr. McLaughlin. I wouldn't attempt to state when that was.

Ques. 108. What do you mean when you say that the Catholic priests came to Oregon under the auspices of the Hudson Bay Company?

Ans. That there was two parties in the Hudson Bay Co. at that time. Dr. McLaughlin told me the people of French prairie were sending for a priest.

Ques. 109. Were any of the people of French prairie still in the employ of the Hudson Bay Company when you first went there, or were they people who had been but were then out of it?

669 Ans. They had been but were not then, but were considered still under the patronage of the company. They considered themselves still under the order of Dr. McLaughlin. They were retired servants simply of the company. Their time of service had expired. They had their natives — and children with them. By native wives I mean Indian woman.

Ques. 110. Did you ever accompany either of the Catholic priests who were here in Oregon on a missionary tour prior to 1848?

Ans. No; I did not understand your question. I never accompanied either of them.

Ques. 111. Did you ever hear of those Catholic priests preach- prior to 1848?

Ans. I think I did.

Ques. 112. Did you ever see or hear of them teaching the Indians prior to 1848?

Ans. I believe I have heard them preach prior to 1848, and frequently heard them teaching the Indians prior to 1848. I made it a point to attend.

Ques. 113. There was considerable competition here at that time between the Protestants and Cathiloc missionaries, was there not?

Ans. Yes.

Ques. 114. Up to what time were you connected with the Protestant mission work here?

Ans. Until about 1848.

Ques. 115. At what point in this section of country were the largest companies or bands of Indians accustomed to congregate together when you first came here and up to 1848?

670 Ans. The Umpquas, along the Willamette valley. They were from Vancouver to the Umpqua valley, in Oregon. The place at which the largest number of Indians were accustomed to gather together was here at Vancouver.

Ques. 116. About what is the largest number of Indians you ever saw at any one time congregated together here at Vancouver between 1838 and 1848?

Ans. I shouldn't put it to exceed 200; there may have been more.

Q. 117. After you first saw the Catholic priest- at Walla Walla, which you say was the first time you saw them in this country,

were you ever at Vancouver at any time when you saw no priest here at Vancouver?

Ans. Oh, yes. I don't know how often.

Ques. 118. Were you ever here more than twice a year between 1838 and 1848?

Ans. Yes; I have been, but I can't give you the exact year or date; it was toward the last part of the time.

Ques. 119. How often were you at or in or near the grave-yard here at Vancouver, which you say you saw when you first came here?

Ans. I have no recollection of visiting the grave-yard more than twice.

Ques. 120. When was the first time?

Ans. When I first arrived here, in 1836, and once afterwards—about 5 or 6 years after.

Ques. 121. Were there any Catholic crosses in that grave-yard when you first saw it?

671 A. No; I don't think there was; but there was the second time I saw it.

Ques. 122. About how many the second time you saw it?

Ans. I don't think there was more than three.

Ques. 123. Did you ever hear either of the Catholic priests preach here at Vancouver prior to 1848?

Ans. Yes; not more than once or twice; they were preaching to the natives and servants of the company. I think they were preaching once outside near the fort, in the houses of the servants. The servants were located all around the establishment outside.

Ques. 124. Did you ever see the priests or hear them prior to 1848 preaching to or teaching among the wild Indians here at Vancouver?

Ans. Not to the wild Indians alone, but to them and the servants of the company congregated together; just the priests and the Catholic servants of the company would go down among the Indians when they were camped; the servants went to assist in the services.

Ques. 125. Were you ever at or in sight of the place known as the Catholic mission at the Cowlitz in 1848?

Ans. I said before I was not at that place.

Ques. 126. Were you ever, prior to 1848, at any place where the Catholics had a mission west of the Cascade mountains, besides the place on French prairie?

Ans. Yes; just this side of Oregon City, there was a band of Indians there. This side of the Clackamas river the Indians had

672 a big lodge there, and the priests used to go and visit them. The Catholics had no improvements at that lodge, but they had a school at Oregon City, which was established some time after I came.

Ques. 127. How long after you first came here before there was any Protestants church building at Vancouver?

Ans. I cannot answer that.

Ques. 128. Do you know and have you ever seen the old Catholic

church building which stands on a part of the ground claimed by the Government as a military reservation here at Vancouver?

Ans. Yes; I have seen a building there, but not to examine it. I first saw it when I came down here to the fort. I can't tell what year I first saw it.

Ques. 129. Of what religious faith was Dr. McLaughlin?

Ans. I know he did not at first belong to the Catholics. After we came here he joined the Catholics; this was somewhere up in the forties.

Ques. 130. Of what religious faith was Chief Factor Douglas?

Ans. He was an Episcopalian, or at least he claimed to be; he and the Dr. used to read the services of the Episcopal church on Sunday when there was no preacher.

Ques. 131. Did the Protestant missionaries have any missions placed west of the Cascade mountains at or near any fort or establishments of the Hudson Bay Company prior to 1848; and, if so, where?

Ans. No; they had none.

Ques. 132. Did the Protestant preachers themselves cultivate or assist in cultivating the enclosed land of their missions in Oregon prior to 1848?

673 Ans. They did; all of them; they occupied fully one-half of their time in that way, if not more.

Ques. 133. How long did Mr. Beaver remain here at Vancouver after you first came to the country?

Ans. Perhaps six months—or less than a year.

Ques. 134. What became of School-teacher Smith, who, you said, was here when you came here?

Ans. He died in Clatsop.

Ques. 135. Did he get into trouble with the company here before he left here?

Ans. No; I think not.

Ques. 136. How long after you came here that he left?

Ans. Perhaps a year. He was compelled to get assistance before *before* Dr. McLaughlin would allow him to go down to Clatsop; he said it was too risky to go alone among the Indians. A Protestant missionary, Mr. Frost, went with him. Mr. Frost belonged to the Jason Lee mission.

Ques. 137. How often did you ever hear Protestants preaching here at Vancouver between 1836 and 1848?

Ans. Generally when I came down on business I heard them on the Sabbath; that includes Mr. Beaver also.

Ques. 138. Was there any Protestant church building here in 1848?

Ans. Not to my knowledge.

Ques. 139. When did the Hudson Bay Company leave Vancouver?

Ans. After their time expired—the time which they were entitled to remain here—they held on until the treaty expired.

Ques. 140. Do you know whether the Hudson Bay Company

made any attempt to prevent the establishment of the Pro-
674 testant mission, which you say was over on the sound, prior to 1848?

Ans. Such was the report and general opinion; I don't know of my own knowledge; in fact, the Methodist mission which was sent there was driven away; I so understood.

Ques. 141. How long after you first came to Oregon were you yourself actively engaged in assisting to establish and maintain Protestant missions here in this country?

Ans. From the time I arrived in the country, constantly for six years before I came down to the settlement in the Willamette valley; and then I built a school-house below Salem, called the Methodist mission, at which I was engaged for about two years. I then went to Oregon City for two years, and there built a house for myself and one for Dr. McLaughlin, and went from there to Clatsop, and was there about 12 years, farming. While at Oregon City, I traveled around considerable, and also while I was building the school-house near Salem. Before 1848 I did not travel much over western Washington Territory. I went up and down the Columbia river two or three times, and back from the river two or three miles or more, where there were settlements. I was never on Puget sound prior to 1848.

Ques. 142. How far back into the country from this place, Vancouver, did you ever go before 1848?

Ans. About two miles.

Redirect:

Ques. 143. Prior to 1848, did you ever talk with Dr. McLaughlin, of the Hudson Bay Company, about the building outside of
675 the fort at Vancouver, used by the Catholics as a church—as to how it came to be built, and what did he say?

(Objected to.)

Ans. Yes; when the building was made he said it was built for a school-house, and these trancient people who came here were permitted to occupy it and hold their services, Protestants as well as Catholics. That is what he told me. I can't give you the year that that school-house was built; I was in Oregon City, and while there I think it was built or soon afterwards.

Ques. 144. What other Protestant preachers besides Mr. Beaver did you ever hear preach at Vancouver before August 14th, 1848?

Ans. Yes; there were the two Lees and Spaulding, and the two missionaries from up the country. I have heard them preach here at different times.

Ques. 145. Where did they generally preach?

Ans. First in the quarters at the fort and then in the building outside called the school building.

Ques. 146. Did you ever hear them preach in the house that Dr. McLaughlin talked about?

Ans. I don't think I heard them preach in the building that has been talked about outside as the Catholic church.

Ques. 147. In testifying about what you said in your history, on page 37 of your testimony, did you not open the sentence before the words "Dr. Whitmen commences" with these words, "No man, set of men, or sect not interested in the result of a measure or a crime will ever use an argument like the one we have quoted from this priest"?

Ans. Yes; I used them.

676 Ques. 148. Were you not then discussing a quotation from the book of Vicar General Bronillette, called Protestantism in Oregon?

Ans. I was.

Ques. 149. Hadn't you been quoating from that book and discussing the testimony given in previous chapters of your history about the massacre of Dr. Whitman and family near Walla Walla?

Ans. I was.

Ques. 150. Didn't you close the paragraph after the words "correspondence," on page 38 of your testimony, with this sentence, and does that not appear in connection with what counsel for the plaintiff read to you out of your book, to wit, "If such facts do not implicate a party, we ask what will. The very book from which we are quoating, containing 108 pages, has not a single sentence condemning the course or crime of these men, but every page contains some statement condemning Spaulding, Whitman, or some American supposed to belong to or in favor of the American settlements or missions"?

Ans. Yes, sir; that is correct.

Ques. 151. Is this book which I now hold in my hand the book known as your History of Oregon and the book which the counsel for the plaintiff read from when asking you about the matter on pages 37 and 38 of your testimony?

Ans. Yes; that is the book.

677 Counsel for the defendants now here offers the book in evidence, which is received and marked "Defendants' Exhibit No. 1 to deposition of Wm. H. Gray."

Recross:

Ques. 152. Is not this the quotation from the book of Vicar General Bronillette which you were criticisong when you said in your book, No man, set of men, or sect not interested in the result of a measure or crime will ever use an argument like the one we have quoated from this priest, viz: "Vicar General Bronillett, in his narratives of Protestantism in Oregon, says: I could admit that Joseph Lewis, Joseph Stanfield, and Nicholis Finlay, who has been seen plundering" (as proved on the trial of Stanfield), "were Catholics without injuring in the least the cause of Catholicism, because, as in good reason" (Roman Catholic, of course), "it is never allowed to conclude from one particularity to another particularity nor to generality; in like manner from the guilt of three Catholics it cannot be reasonably concluded that other Catholics are guilty nor *a fortiori* that all Catholics are guilty and Catholicism favorable to the

guilt." Is not that the quotation about which you say in your book, immediately following thereafter, "No man, set of men, or sect not interested in the result of a measure or crime will ever use an argument like the one we have quoted from this priest"?

Ans. Certainly.

Ques. 153. And then next, immediately thereafter, follows the further quotation from your book, beginning with the words
678 "Dr. Whitman" and extending to and including the words "correspondence," as stated by you on your first cross-examination, does it not?

Ans. Yes, sir.

Ques. 154. Where is Dr. McLaughlin now—dead or alive?

Ans. Dead.

Ques. 155. You speak of a building which you call a school-house outside of the stockade of the Hudson Bay fort at Vancouver which you say was used by the Protestants preachers who came here prior to 1848 as a preaching place. How far and in what direction was that house from the old Catholic church that was first built outside the fort?

Ans. I can't give you the distance, but I think not to exceed two or four hundred feet south of the main stockade, but I may be mistaken as to that.

Redirect examination by permission:

Ques. 156. You say in your cross-examination that Indians congregated here at Vancouver from 1836 to 1848. What was it that caused them to congregate here?

Ans. To trade with the Hudson Bay Company, and when they got through trading they returned to their country, up and down the river and elsewhere.

WILLIAM H. GRAY.

The further taking of testimony is adjourned until August 10th, 1887, at 9 o'clock a. m.

W. BYRON DANIELS, *Referee.*

679 NINTH DAY, *August 10th*, 1887.

The same parties, by their attorneys, appeared to-day as of yesterday pursuant to adjournment.

Defendants next introduce as a witness on their behalf JOHN STENSGAIR, who, being first duly sworn, testifies as follows:

Ques. 1. State your name, age, place of residence, and occupation.

Ans. My name is John Stensgair. I am past seventy—about eighty years old. I reside in Clarke county, Washington Territory, and am by occupation a farmer.

Ques. 2. When did you first come to Vancouver?

Ans. In the fall of 1838.

Ques. 3. Where did you come from?

Ans. Scotland.

Ques. 4. Where were you born?

Ans. In Scotland.

Ques. 5. What did you come to Vancouver to do?

Ans. I came here to work for the Hudson Bay Company—to do farming, voyaging, and different kinds of work.

Ques. 6. Who were the persons in charge of the Hudson Bay Co.'s affairs at Vancouver?

Ans. Dr. McLaughlin and James Douglas.

Ques. 7. Were you married man when you came here?

Ans. No, sir; I married about 5 years after I came here to an Indian woman.

Ques. 8. Who married you?

Ans. By the esquire here.

Ques. 9. What place were you married at?

680 Ans. Up the river 5 miles from Vancouver, on this side, near the saw and flour mill of the Hudson Bay Company.

Ques. 10. When you came here were there any parson here?

Ans. No, sir.

Ques. 11. Did you ever know a Mr. Beaver here?

Ans. He was a parson here, but he went away before I came here.

Ques. 12. Were there any Catholic priests here when you came?

Ans. Yes; one or two, I guess.

Ques. 13. Where did they live?

Ans. Here at the fort. There was no other place for them to live here then.

Ques. 14. Where did they eat?

Ans. I expect at the governor's table, inside the fort.

Ques. 15. Where did they preach?

Ans. They preached inside the fort the first — I came here, before this church was built—I mean the old Catholic church was built.

Ques. 16. Do you know Napoleon McGilvra?

Ans. Yes, sir; he came here with me.

Ques. 17. When did you first see him?

Ans. Not until he came to this place. He came on the same voyage I did, but I did not get acquainted with him until after I got here.

Ques. 18. How many came with you on that trip, and where did you start from after you crossed the Atlantic?

Ans. I could not tell the number, but a good many; I should think over thirty. We started from the Hudson Bay Co.'s fort at York Factory, Canada.

681 Ques. 19. What was this company coming here for?

Ans. For the Hudson Bay Company, to hunt and trap.

Ques. 20. Where did the priests preach inside the fort?

Ans. They had a place for that purpose—a house.

Ques. 21. Who composed the people that they preached to inside the fort?

Ans. They preached to the Indians. I was never in the church but once. They were preaching all the time to Indians and in the Indian language, too. They preached to no wild Indians inside the fort. The Indians they preached to inside the fort were the wives of the companie's men and their children.

Ques. 22. Did they preach to the French Canadians, too?

Ans. Yes, sir; inside the fort until they had that church.

Ques. 23. When they preached to the wild Indians where was that at?

Ans. I don't know but of one place; that was American mission. They preached to big companies of them here in the woods.

Ques. 24. Who were the preachers that preached to the wild Indians here in the woods?

Ans. A man by the name of Lee, a regular Methodist preacher.

Ques. 25. What about schools here at Vancouver here when you came and on until 1848—the first ten years?

Ans. They had a school in the fort; no other school that I know of.

Ques. 26. Whose school was that inside the fort?

Ans. It belonged to the Hudson Bay Company. They had a school teacher hired there.

Ques. 27. What was his name?

682 Ans. He was an Englishman, named Holland.

Ques. 28. How long was he here teaching?

Ans. That I don't know. He did not teach very long after I came here.

NOTE.—The further examination of this witness suspended by consent of parties.

W. BYRON DANIELS, *Referee.*

The testimony of John Stensgair is continued on page 142 of defendants' testimony.

W. BYRON DANIELS, *Referee.*

Defendants here introduced as a witness on *its* behalf RUFUS INGALLS, who, being first duly sworn, testified as follows:

Ques. 1. State your name, age, place of residence, and occupation.

Ans. My name is Rufus Ingalls, of the United States Army; my age is 68 years, and my present residence is New York city; I am a retired officer of the United States Army.

Ques. 2. How long have you been in the Army of the United States?

Ans. I have been in the United States Army since the year 1839.

Ques. 3. Did you know General U. S. Grant; and, if so, how intimately?

(Objected to.)

Ans. I did know him very intimately from the time he was 17 years old until his death. I served under him as his chief quartermaster during the last year of the war of the rebellion, and served under him until he became President of the United States. We had served together here at this place in 1852 and 1853.

683 Ques. 4. When did you first come to Vancouver, Washington Territory?

Ans. I arrived at Vancouver, this place, in May, 1849, and remained until March, 1853, my first tour. I came back next in March, 1856, and remained until the autumn of 1860.

Ques. 5. What was the occasion of your first coming here?

Ans. I was in California in 1849, and was sent up here by the commander of the division of the Pacific to provide for the troops which were going to be stationed in the Territory. This was Oregon at that time; it was all Oregon south of latitude 49. My special instructions directed me to provide mainly for the rifle regiment, which was then marching overland to this country, and to make a general inspection of the resources of the country, with a view to providing accom-odations and supplies for the troops. I was captain and assistant quartermaster of the army, and was sent here as chief quartermaster of the then Eleventh military department.

Ques. 6. When you got here who did you find here on the land now occupied as a military reservation and on the land where the city of Vancouver now is?

Ans. When I arrived here, early in May, 1849, I found Major Hathaway'- battalion of artillery in camp at this place, on the site now occupied by the garrison, upon the invitation and consent of the Hudson Bay Co., which was in actual possession of all the lands in this vicinity. The artillery had arrived two or three days before I did, and they were in tents.

Ques. 7. What was the first thing done here after you got here by the troops?

(Objected to.)

684 Ans. It was to establish a depot of supplies in the Territory of Oregon, and by virtue of authority vested in me I selected this place first for the depot, and the next thing was the establishment of a military post, which was also established with the consent and under a written agreement with the Hudson Bay Company.

Ques. 8. State what you did or what was done under your directions to establish that post.

(Objected to.)

Ans. This place was selected for manifestly military reasons. The first thing that was done, there being some question of title, I entered into a written agreement with the Hudson Bay Co., as agent of the Government, which company was in the undoubted possession of the country, that the Government should have the right to erect all necessary buildings and make all necessary arrangements for the establishment of the post and depot; that all improvements which might be created should remain subject to the orders of the Government, with full jurisdiction, subject only to the possessory rights of said company. We did nothing more than that except to build and complete as far as was possible the military establishment.

Ques. 9. How many houses and of what character did you put up in 1849?

(Objected to.)

Ans. We put up a set of officers' quarters for the accom-odations

of all the officers who were present at that time. They were log houses originally, chinked and daubed. It was a long build-
685 ing and partitioned off into sets of officers' quarters. Its site was on the lower slope of the present garrison. There was put up also a guard-house. All these buildings were log houses, chinked and daubed. The accomo-dation- for the troops were secured by renting buildings of the Hudson Bay Company near the buildings where the officers' quarters were. They were two buildings between the pickets of the Hudson Bay Co. and the guard-house and officers' quarters already spoken of. They were built for educational purposes but had never been occupied. They were large, square, two-story buildings, built of slabs and posts grooved, and built in the Canadian way. For my own quarters I hired the one-story building near where the present depot building is—very near the river from the Hudson Bay Co., and in what was called Kanaka Town.

Ques. 10. Were there any Catholic priests here in 1849; if so, who were they?

(Objected to.)

Ans. There was an Italion Catholic priest named Dalavoux, who was considered the chaplain of the Hudson's Bay Co., who lived inside the pickets of tha company and was paid by the company, but to the best of my belief and recollection he went away in the fall or winter of that year—1849.

Ques. 11. When did the next priest come here and where did he stay?

(Objected to.)

Ans. The next one that came I do not remember when nor his name, but I think it was Father Bronilet. It was a long time after the departure of Delavoux before any other one came. During the year 1850 and longer there was no Catholic priest here to my knowledge; in fact, I can say so positively.

686 Ques. 12. In 1849 what, if anything, did the Catholic priest that was here do or say to you or to any of the military authorities about building on the grounds or occupying it for military purposes?

Ans. Nothing. No thought was given to it; no such thing known.

Ques. 13. What knowledge was in the reach of the priest who was here in 1849 as to your occupancy of the land, and how notorious was that occupancy?

(Objected to.)

Ans. So far as we have proceeded there was nothing said or done between the military and Catholic priest. Father Dealvoux was here when we were building the buildings. He was a lively and associated with the younger officers and made no objections to our building. The matter was never the subject of conversation. He made not the slightest objection to our occupancy.

Ques. 14. What was the value of the improvements made here in 1849 by the military authorities?

(Objected to.)

Ans. In round numbers, probably fifty thousand dollars. That was in 1849.

Ques. 15. What were the improvements made on the land now occupied as a military reservation in 1850, and value, character, and extent?

(Objected to.)

Ans. In the autumn of 1849 Col. Loring arrived with the rifle regiment, most of which companies were quartered in Oregon city in the winter of 1849 and 1850 until the garrison
687 could be formed here with the proper accommodations for the officers and men. In October of 1849, I think, by proclamation he declared a military reservation of four miles square at this place. To the best of my recollection this was in 1849. The center of the reservation was not far from the center of the present garrison—not the center of the present reservation, but of the present garrison. It was duly surveyed and known to everybody, and it was my duty to see that there were no encroachments within the limits of that reservation. In the spring of 1850 the lines of the present garrison were established—I mean its configuration and form and the lines upon which the officers' quarters are now located were established—and 8 or 9 sets of officers' quarters built as before described, on logs. Two very large set of barracks on each flat of the garrison were also erected for soldiers' quarters. The buildings heretofore spoken of as rented from the Hudson Bay Company as barracks were still retained and occupied as storehouses and hospital.

Ques. 16. To whom did you pay rent, if any, for the buildings of the Hudson's Bay Co. which were occupied by the military authorities in 1849 and 1850?

(Objected to.)

Ans. To the Hudson Bay Company.

Ques. 17. Were there any other improvements than those you have just mentioned erected by the military authorities in 1850 on this reservation?

Ans. Yes; the present building used by the depot quarter-
688 master to this time was erected that year. It is a frame building, quite the same in appearance as to-day, and in addition to that the stables, blacksmith shop, corral pertaining to the depot, on the same site where they are now; but the stable afterwards burned down. I don't know whether the other buildings are the same.

Ques. 18. In round numbers, what was the value of the improvements which you have testified to as being made in 1850, at the time they were made?

(Objected to.)

Ans. One hundred and fifty thousand dollars.

Ques. 19. What was said, if anything, or done by the Catholic priest or any one for them in 1850 relative to putting up the improvements of that year?

(Objected to.)

Ans. Not a word nor a sign.

Ques. 20. Was there any objection made about that time to building these improvements; and, if so, who objected and what was said?

(Objected to.)

Ans. It was about that time the town of Vancouver was being established and the county of Clarke, and, to the best of my recollection, the county of Clarke brought suit against Col. Loring and myself for an injunction to compel us to stop creating the improvements already spoken of. By authority of the War Department I employed counsel to defend the interests of the Government before the United States circuit court here. Clarke county was de-
689 feated and the decision given in favor of the Government's title to the reservation. No other parties made any objection.

NOTE.—The counsel for the Government here states that he will subsequently show that the records of that suit are lost, and he asks with that end in view the next question.

W. BYRON DANIELS, *Referee.*

Ques. 21. What part did the Catholic church or the mission of St. James or any Catholic priest for the Catholic church take in that suit, or were they parties to it in any way?

(Objected to.)

Ans. They were not parties to the suit and not heard of.

Ques. 22. Who was the judge that rendered the decision in that case?

(Objected to.)

Ans. William Strong, lately of Portland, Oregon, now dead, and my attorney was Amory Holbrook, the United States district attorney for Oregon.

Ques. 23. What improvements, if any, were made upon the military reservation at Vancouver, where the garrison now is, in the year 1851? State their nature, extent, character, and value.

(Objected to.)

Ans. I don't know of any additional buildings being put up, but, of course, those which had been put up were subject to constant repair.

Ques. 24. What improvements, if any, were made upon the military reservation at Vancouver, where the garrison now is, in the year 1852 and up to the 16th day of May, 1853?

(Objected to.)

690 Ans. I would answer that this way: In 1851 most of the troops from this department, particularly the whole of the rifle regement, were removed to Texas, and, until the arrival of the 4th infantry in August, 1852, there was but a small garrison at Vancouver, and the improvements and expenditures were reduced to what was considered a minimum for that period. In the autumn of 1852 the garrison became a large one, under the command of Col. Bonneville of the 4th infantry, and from that time to the present improvements have been constantly going on, sometimes with the expenditure of large sums of money. I could not state definitely what the improvements were from autumn of 1852 to the middle of May, 1853. I went away in March, 1853.

Ques. 25. When was the first time you heard of the Catholic mission here?

(Objected to.)

Ans. I do not recollect, except that it was in the autumn of 1852 and spring of 1853 that the Catholic mission here began to assume form that I first heard of it as a mission.

Ques. 26. Prior to your leaving here in the spring of 1853, what, if anything, did the Catholic church here, or the priests thereof, or the Mission of St. James, or any one for them do or say relative to the occupancy of the land occupied as a garrison and military reservation here?

(Objected to.)

Ans. Nothing; if they had anything to say it was asking for indulgence.

691 Ques. 27. Is there anything further that you can state about renting and occupying buildings here by the troops that you have not stated?

(Objected to.)

Ans. I would say that, in addition to the buildings having been rented of the Hudson's Bay Co. in 1850, I rented what — called the church premises, including the rectory and the church itself, if I wanted to make use of it for any purpose, from the Hudson's Bay Co. and occupied them until the departure of the rifle regiment, when they were no longer required.

Ques. 28. What did those church premises consist of, with reference to the old Catholic church in the reservation?

(Objected to.)

Ans. The building especially referred to was the building adjacent to the church; was occupied as officers' quarters. It was a small one-story frame building, situated upon the east side of the church building and attached to it. The rental of the church premises included the use of the church, if we wanted it. We rented this of the chief factor of the Hudson Bay Co., Peter Skeen Ogden, who was stiled governor.

NOTE.—Counsel for plaintiff now retracts his withdrawal of the letter of Peter Skeen Ogden contained in the documentary evidence heretofore offered by the plaintiff and offers that letter now in evidence.

W. BYRON DANIELS.

692 Ques. 29. What, if anything, was said to you, or what, if any, objection was made by any Catholic priest, or the Mission of St. James, or by the Catholic church, or by any one for them, touching your occupancy of the church premises you have described? State fully.

(Objected to.)

Ans. Nothing.

Ques. 30. When, if ever, was the military reservation of four miles square cut down?

(Objection.)

Ans. I do not remember. It was done in my absence between the spring of 1853 and my return in 1856.

Ques. 31. Was there any town or city or vil-age here in 1849, when you came here?

(Objected to.)

Ans. No, sir; nothing but what pertained to the employés of the Hudson's Bay Company.

Ques. 32. Who was Col. Bonnaville?

(Objected to.)

Ans. He was col. of the 4th infantry, and in 1852 was in command of this post.

Ques. 33. What was his religious faith?

(Objected to.)

Ans. He was a professed Roman Catholic.

Ques. 34. How about Roman Catholics being under his command at this post in 1852?

(Objected to.)

Ans. There were very few, if any. I happened to know
693 his religious views because they were very pronounced.

Ques. 35. What, if anything, did Col. Bonnaville do about allowing persons not connected with the military to reside upon the reservation, other than the Hudson's Bay Company people?

(Objected to.)

Ans. It is within my knowledge that he gave what he called leases to various individuals or parties for indulgence—that is, for living within the limits of the reservation—always stipulating, as he said, that these premises should be vacated on demand of the commanding officers; thus, as he thought, guarding the interests of the Government. I especially include in this privileges to the Catholic mission.

Ques. 36. Was there any church building within the limits of the present military reservation in 1849. And, if so, state where it was located with reference to the stockade of the Hudson Bay Company, and describe the church building and who occupied it to preach in in 1849.

(Objected to.)

Ans. There was a church building on the present site of the old Catholic church, and was situated, I think, northwest of the stockade of the Hudson Bay Co., about a quarter of a mile. It was a very plain, simple, board building; not a bal-oon house, but a plain building of joists and weather-boarding, without partitions; just a barn-like building, put up by the Hudson's Bay Co. for the use of its Catholic employees. There was nothing in the interior in
694 1849 that I know of; there were no pictures or ornaments there. There may have been a little altar; I think there was; but benches none, so far as I recollect. I don't know of any one preaching in it at the time you refer to.

Ques. 37. What about school-houses and the education of the children here in 1849, when you came here?

(Objected to.)

Ans. At that time, in 1849 and 1850, I never heard of or observed anything of the sort about the church. Whatever there was of that was done inside the fort. Some of the higher children of the officers of the Hudson Bay Co. had a school where lessons were given them, and I think there was something of the sort out on 4th plain.

Ques. 38. What about the priests here in 1849 and 1850 having or carrying on schools of any kind?

(Objected to.)

Ans. I did not see or hear anything of the kind. There certainly could not have been in 1850, because I had control of the premises myself.

Ques. 39. What did you observe about a grave-yard or burial place when you came here in 1849?

(Objected to.)

Ans. There was a grave-yard, called the Hudson's Bay Company's grave-yard, just north of the site where the old church building now stands and a little to the left of the road leading up to the garrison. It was laid out and enclosed by the Hudson Bay Co. and used for the interment of such people of the company who died or of
695 strangers here who died, and the people connected with the army who died were buried there.

Ques. 40. Was there any other grave-yard here in 1849 than the one you have described?

(Objected to.)

Ans. No.

Ques. 41. How long did you continue to use that grave-yard for the burial of soldiers, and what finally became of it?

(Objected to.)

Ans. It was used for the interment of the classes of people alluded to in my previous answer during my term of service there and until recently abandoned and the grave-yard established in the northwest corner of the present reservation under the order of Gen. Miles, then commanding the department.

Ques. 42. What about the priests cultivating any land here on the reservation from the time you came, in 1849, up to the time you left, in the spring of 1853?

(Objected to.)

Ans. No land was cultivated by them from 1849 to 1852, and subsequently very little in the immediate vicinity of the church building for garden purposes.

Ques. 43. How about the priests of the Catholic church having school-houses or convents or orchards in or about the church building you have described from 1849, when you came here, until the spring of 1853, when you left the first time?

(Objected to.)

Ans. I don't think they had anything of the sort in 1849,
696 1850, and 1851, and 1852; I am very sure they had nothing of the sort. Subsequently they did have schools under the head of the Mission of St. James.

Ques. 44. When did they first begin to have these schools, where were these schools situated, and state what you know in this connection as to how they came to build these schools at this place?

(Objected to.)

Ans. As to the beginning of these schools, I am not positive whether they began as early as 1853, but later, on my return in 1856, I know that they had schools in the building which is there now—the annex to the church building. They have made many additions, but as it stands to-day the schools are there.

Ques. 45. Was that annex the same building that you had rented of the Hudson Bay Co. and occupied as to which you have previously testified?

(Objected to.)

Ans. The building next to the church building—adjoining—is the one rented by me from the Hudson Bay Co. It has had additions to it since in the way that one can observe at the present time. The annex is the building that was subsequently occupied by Bishop Blanchet until he moved outside, and it was afterwards occupied by the mother superior, and thes- annexes that were put onto it afterwards were 5 or 6 little board buildings that are seen there now. They were added as the establishment increased.

Ques. 46. Do you know by whose permission these buildings were added?

(Objected to.)

697 Ans. By that of Col. Bonneville, to the best of my knowledge and belief.

Ques. 47. What improvements had the Hudson Bay Company here at Vancouver on the grounds now occupied as a military reservation in 1849, when you came here?

(Objected to.)

Ans. The Hudson Bay Co. at that time was in actual occupation of all the present military reservation; its stockade enclosed; there were houses and residences. Outside of the stockade were very large enclosures, which were then being cultivated. To the west, covering the space between what is now the town of Vancouver and where the pickets were, was quite densely occupied by houses of their employees, with all the appurtenances. The town to the west of the western line of the present reservation was densely covered with trees. The present site of the post up to the forest was mostly under cultivation when occupied by the troops, and all of it had been under cultivation where the present garrison is now. The land up and down the river was also under enclosure and under a high state of cultivasion. You might say what is now the open space in front of the military reservation and between it and the river. Their fields under enclosure at that time extended to within a few yards of the church building and for a good many years afterwards.

Ques. 48. About what was the value of the church building you speak of and its annex in 1849?

(Objected to.)

698 Ans. From an examination of the books of the Hudson Bay Com. made that year it was found that the improvements had cost the company about $500. It wouldn't cost any more than that to-day. It was put up by the company with lumber from its saw-mill and with its own help, and the principal items of costs were nails.

Ques. 49. Who made this examination and how came it to be made?

(Objected to.)

Ans. I sent Mr. Lloyd Brook up the Hudson Bay Co.; he was my chief clerk, and in company with Mr. Graham, who was the chief trader of the Hudson Bay Co., the books were examined with the result that I have already stated.

Ques. 50. Describe the stockade of the Hudson Bay Co. which was here in 1849 when you came here.

(Objected to.)

Ans. It was formed upon a rectangle; the dimensions I never knew. The stockade was formed in the usual way by digging a trench 18 inches or two feet deep and setting in pine-timber posts with the sides squared, so as to come as close together as possible,

and some 12 feet in height, and the earth packed in at the base and the upright pieces fastened together.

Ques. 51. Do you know a man by the name of L. Scholl?

(Objected to.)

Ans. I did know him very well; his name was Louis; he was first here in 1856; he was employed by me and rated as an agent, and was a surveyor by profession, and was employed by me to execute any directions that I might give him from time to time.

699 Ques. 52. Counsel here hands the witness a map and asks him what it is.

Ans. I recollect it very well. It is a map made under my direction and represents what at that time was called Fort Vancouver and environs as it was in 1856.

Ques. 53. Look at this map and state whether it represents truthfully the location of the Hudson's Bay fort as it was located in 1849, when you came here, and the location of the church building you speak of in 1849, when you came here, and the location of the officers' quarters and improvements built by the military authorities from 1849 to the spring of 1853, when you left here.

(Objected to.)

Ans. Very exactly.

Counsel for defendant now offers the map in evidence, which is objected to by plaintiff's counsel. The same is received by me and marked Exhibit No. 1 to the deposition of Gen. Rufus Ingals.—W Byron Daniels, referee.

Ques. 54. With reference to that map, where was the Hudson's Bay Co. stockade located in 1849?

(Objected to.)

Ans. The first is accurately represented by these red marks, enclosing the words "Hudson's Bay fort," and the buildings inside are represented by the red blocks.

Ques. 55. Was there an orchard here in 1849; and, if so, where was it with reference to this map?

(Objected to.)

Ans. There was, and it was where the orchard occurs on this map.

Ques. 56. Whose orchard was that?

(Objected to.)

700 Ans. The Hudson's Bay Company's.

Ques. 57. Where was the cultivated ground you speak of in 1849 with reference to the map?

(Objected to.)

Ans. The cultivated grounds laid to the east of the Hudson's Bay Company's fort and south to the river, and especially the

lands represented on this map by the word "enclosures," and covered also the ground marken on this map as a garrison, and over which is written the words "officers' quarters," and within which is written the words "flag staff," "guard-house," and what is marked on the map as "hospital," "Co.'s quarters," and "ordnance sergeant," covering all the improvements on the present site of the Vancouver barracks.

Ques. 58. With reference to that map where was the church building you speak of located in 1849?

(Objected to.)

Ans. In 1849 it was located precisely as it is to-day and at the place on the map marked "Catholic mission."

Ques. 59. Where was the grave-yard with reference to this map, or near where was it?

(Objected to.)

Ans. It was north of the church building marked on the map "Catholic mission" and near the place marked "sutler," and probably a little west.

Ques. 60. Where was the frame building you built for quartermaster's quarters located?

(Objected to.)

Ans. It is upon the western line of the reservation and on the map marked "quartermaster's office," which was also his residence.

Ques. 61. Did the Hudson's Bay Co. have a stable here in 1849?

701 (Objected to.)

Ans. Yes; they had old stables, but nothing in the regular way.

Ques. 62. Did they have a hospital building here?

(Objected to.)

Ans. Yes; they did, I am certain. It was located within the pickets or stockade.

Ques. 63. Where were the houses of the company's employees located with reference to this map in 1849?

(Objected to.)

Ans. They were scattered about upon the plain irregularly, but mostly to the west of what is marked on the map as the Hudson Bay Company's fort, and to the western line of the reservation as laid out on this map to the platted town site, and about and in the immediate vicinity of the place marked "Catholic mission."

Ques. 64. Describe the character of the ground in 1849 marked on this map "public pasturage."

(Objected to.)

Ans. On the bank of the river a levee had been built, which kept the water out at ordinary stages, but in time of high water what is marked as "public pasturage" on the map was inundated yearly.

Ques. 65. What was this ground used for generally?

(Objected to.)

Ans. It was open and what was called a plain. In New England they would call it "interval," and in Missouri call it "bottom."

Ques. 66. Was Sir James Dougals here in 1849 when you came here, and from that until 1853, when you left, or during any of that time?

702 (Objected to.)

Ans. On my arrival, on the 10th or 12th of May, 1849, Mr. Douglas was president at the Hudson's Bay Compan*ie*'s fort, but left about that date to establish the compan*ie*'s headquarters at Victoria, Vancouver island, and was not at Ft. Vancouver subsequently. I think Peter Skeene Ogden was Douglas's superior. He, Douglas, was here packing up when I arrived in 1849, and Peter Skeene Ogden was here at that time in command and remained until I left here in 1853.

Ques. 67. What was the Hudson Bay Co. engaged in doing at this point from the time you arrived in 1849 until the time you left in 1853?

(-bjected to.)

Ans. It was the headquarters of the Hudson's Bay Co. on the northwest coast and it was engaged in its regular business of fir traders under its charter, and had many dependencies. Peltries were collected and finally brought to Vancouver, and in addition it conducted a general commercial and agricultural business.

Ques. 68. When did it cease to do business at Vancouver?

(Objected to.)

Ans. Officially upon the expiration of its charter, I think, the 13th day of May, 1858. I would add thereon they lingered and it was with a great deal of difficulty they were gotten rid of, and they did not vacate the place until 1860, when they formerly surrendered it, tendering the keys to me, and I refused them because I said the premises were ours, and we took them.

703 Ques. 69. From 1849, when you came here, until the spring of 1853, when you left here the first time, what, if any, Indian congregations or Indian schools were there here receiving instructions from Catholic priests?

(Objected to.)

Ans. None.

Ques. 70. Was there any religious Protestant church services here from 1849 until you left, in 1853?

(Objected to.)

Ans. There was usually an army chaplain on duty at the post, who conducted services every Sabbath, but not regularly.

Ques. 71. Where did the priest, Delvoux, hold his religious services in 1849 and until the time he left?

(Objected to.)

Ans. I suppose inside the stockade. I don't know whether he held any or not. I know he lived inside the stockade.

Ques. 72. Was there a Kanaka preacher here in 1849, and who was he preaching to?

(Objected to.)

Ans. Yes; there was. He was preaching to the Kanakas in the employ of the Hudson's Bay Company. He was an employee of the Hudson's Bay Co. himself and preaching was a secondary consideration.

Ques. 73. How many Kanakas were in the employ of the Hudson Bay Co. when you came here?

(Objected to.)

Ans. I don't know; but I think 50 in round numbers. The relations between the Sandwich islands and the Hudson's Bay
704 Co. were very friendly, and the commerce in flour, sugar, lumber, fish, pork, and etc. was considerable between the company and the islanders.

Ques. 74. What of the products you speak of did the Hudson Bay Co. send to the Sandwich islands?

(Objected to.)

Ans. The Hudson Bay Co. had a fleet of vessels which would bring from London merchandise of every character necessary for the traffic of the coast. These vessels, after discharging at Ft. Vancouver, would take on the accumulations for the year—peltries, lumber, flour, and pork, etc.—and stop at the Sandwich islands, where many of the products would be left in exchange for sugar and other products of the island; sometimes visiting China, and winding up by the delivery of the peltries in London. That would make a round trip.

Ques. 75. Where was it that this Kanaka preached to the Kanakas?

(Objected to.)

Ans. In his own house—the house assigned to him belonging to the Hudson's Bay Co.—and about 75 yards east of the place marked on the map, "Exhibit 1 to my testimony," as the quartermaster's office.

Ques. 76. Do you know where there is a big cotton-wood tree on the north bank of the Columbia river, about 200 yards west of a house known as William Ryon's house, in 1853?

(Objected to.)

Ans. Yes; I think it is about where the fractional block 1 is marken on the map, Exhibit 1.

705 Ques. 77. What is the value of the 430 acres of land in controversy in this suit, exclusive of the buildings on it?

(Objected to.)

Ans. I really have not thought of it. I don't know but I would put it at $250 per acre, irrespective of improvements upon it.

Ques. 78. What would you say, in round numbers, would be the value of the improvements on this land owned and used by the United States as military quarters?

(Objected to.)

Ans. A million of dollars.

Adjourned until to-morrow at 9 o'clock a. m.

W. BYRON DANIELS, *Referee.*

10TH DAY, *August 11th*, 1887.

The same parties, by their attorn*ies*, appeared to-day as of yesterday, pursuant to adjournment.

Defendant now offers in evidence certain documentary evidence certified under section 882 of the Revised Statutes of the United States.

First. A document dated headquarters 11th military department, Ft. Vancouver, O. T., October 1st, 1850, purporting to be a notice signed by W. W. Loring, lieut. col. R. M. R. & bvt. col. U. S. A., commanding 11th military department, and certified by R. C. Drum, adjutant general, under date of March 3rd, 1887, and asks that the same be received and filed herein as Defendants' Documentary Evidence "A;" also and at the same —

706 defendants offer in evidence, second, a document headed "Limits of Government reservations," dated headquarters, Ft. Vancouver, W. T., December 8th, 1854, and signed B. D. Forsythe, first lieut., Fourth infantry, adjutant, and certified by R. C. Drum, adjutant gen., under date of March 3rd, 1887, and asks that the same be received in evidence and filed herein as Defendants' Documentary Evidence "B;" also and at the same time defendants offer in evidence a letter dated headquarters 11th military department, Columbia barracks, O. T., November 20th, 1850, and signed W. W. Loring, lieut. col. R. M. R., brevet col., U. S. A., commanding 11th military department, and addressed to Brevet Major Gen. R. Jones, adjutant gen., U. S. Army, Washington city, and purporting to transmit a certain map, and certified by R. C. Drum, adjutant gen., under the date of March 3rd, 1887, and asks that the same be received in evidence and filed herein as Defendants' Documentary Evidence "C;" also and at the same time defendants offer in evidence a map entitled "Map of the Government reserve at Vancouver, Oregon, August, 1850, surveyed and drawn by James Stewart, second lieut., R. M. R., brevet captain, U. S. A., and certified by R. C. Drum, adjutant general, under the date of March 3rd, 1887, and asks that the same be received in evidence and filed herein as Defendants' Documentary Evidence "D;" also and at the same time defendants offer in evidence a letter dated headquarters, Col. barracks, O. T., Feb. 23rd, 1853, and signed B. L. E. Bonneville, lieut. col., 4th infantry, and addressed to Maj.

707 E. D. Townsend, assistant adjutant gen'l, h'dq'rs P'c'f' div., San Francisco, California, and certified by R. C. Drum, ad-

jutant gen'l, under date of March 3rd, 1887, and asks that the same be received in evidence and filed herein as Defendants' Documentary Evidence "E;" also and at the same time defendants offer in evidence a letter dated "War Department, Washington, Oct. 29th, 1853, and signed Jefferson Davis, Secretary of War, and addressed to Gen'l E. A. Hitchcock, commanding Pacific divisions, San Francisco, Cal., and certified by R. C. Drum, adjutant gen'l, under date of March 3d, 1887, and asks that the same be received in evidence and filed herein as Defendants' Documentary Evidence "F;" also and at the same time defendants offer in evidence a copy of a letter dated Ft. Vancouver, W. T., Nov. 9th, 1853, and signed by B. L. E. Bonneville, lieut. col., 4th *int.*, and addressed to Col. C. K. Gardener, surveyor gen'l of Ore., Oregon City, O. T., and certified by R. C. Drum, adjutant gen'l, under date of March 3rd, 1887, and asks that the same be received in evidence and filed herein as Defendants' Documentary Evidence "G;" also and at the same time defendants offer in evidence a document entitled "Proceedings of a board of officers assembled at Ft. Vancouver, W. T., by virtue of the following order," and dated headquarters, Ft. Vancouver, W. T., Jan. 17th, 1854, and signed "by order of Lieut. Col. Bonnivelle," John Withers, second lieut., 4th *int.*, acting adjutant, and certified by R. C. Drum, adjutant gen'l, and dated March 3rd, 1887, and asks that the same be received in evidence and filed herein as Defendants' Documentary Evidence "H;" also and at the same time defendants offer
708 in evidence a letter dated headquarters Pacific div., Sanoma, Dec. 30th, 1850, and signed Persifor F. Smith, brevet maj. gen'l, commanding div., and addressed to Brevet Maj. Gen. R. Jones, Washington, and certified by R. C. Drum, adjutant gen'l, under date of March 3rd, 1887, and asks that the same be received in evidence and filed herein as Defendants' Documentary Evidence "I;" also and at the same time defendants offer in evidence a letter dated Department of State, Washington, 19th May, 1859, and signed Lew Cass, and directed to Hon. John D. Floyd, Sec. of War, and certified by R. C. Drum, adjutant gen'l, under date March 3rd, 1887, and asks that the same be received in evidence and filed herein as Defendant*d* Documentary Evidence "J;" also and at the same time defendants offer in evidence a l*a*tter dated Ft. Vancouver, May 23rd, 1853, signed by Peter Skeen Ogden, and addressed to Hon. John B. Preston, sur. gen'l of Oregon, Oregon City, and certified by R. C. Drum, adjutant gen., under date of March 3rd, 1887, and asks that the same be received in evidence and filed herein as Defendants' Documentary Evidence "K;" also and at the same time defendants offer in evidence a letter dated headquarters department of the Pacific, San Francisco, Cal., Dec. 7th, 1853, and addressed to Lieut. Col. B. L. E. Bonneville, 4th *int.*, Ft. Vancover, Washington Territory, and certified by R. C. Drum, adjutant gen'l, under date of March 3rd, 1887, and asks that the same be received in evidence and filed as Defendants' Documentary Evidence "L;" also and at the same time defendants offer in evidence a letter dated Department of State,
709 Washington, 24th Nov., 1869, and signed Hamilton Fish, and addressed to the Hon. Wm. W. Belknap, Sec. of War,

and certified by R. C. Drum, adjutant gen'l, under date of March 3rd, 1887, and asks that the same be received in evidence and filed as Defendants' Documentary Evidence "M;" and also and at the same time defendants offer in evidence a certified copy of executive order dated Jan. 15th, 1878, confirming the military reservation at Ft. Vancouver, now Vancouver barracks, Washington Territory, and copies of papers and maps mentioned in the order as "A and A," "B and B," "C, D, and D," certified by W. A. J. Sparks, Commissioner of the General Land Office, dated March 12th, 1887, and asks that the same be received in evidence and filed as Defendants' Documentary Evidence "N."

By consent of parties and to save time these documents are considered as separately offered, and each, when so offered separately, objected to by plaintiff's counsel as being incompetent, irrelevant, and immaterial as evidence in this case, and are further considered as being separately received in evidence, subject to such objections, and marked as requested by the defendants' counsel.

W. BYRON DANIELS, *Referee.*

Testimony of Gen'l Rufus Ingalls Resumed.

Cross-examination:

Ques. 79. General, what is your own religious faith?

Ans. I am a Christian; I am a member of no particular church; I have never belonged to any church; I have usually attended the Episcopalian church.

710 Ques. 80. Are you not now and have you not been for many years past quite strongly prejudiced against the Roman Catholic Church, its priests, institutions, and teachings?

Ans. I am not. I mean to say I never was, and I entertain the highest respect for the Catholic church.

Ques. 81. Have you in the testimony which you have just given confined yourself to statements of fact resting in your own knowledge, or have you not, on the contrary, made quote a number of statements for information as to which you rely upon hearing?

(Objected to as not proper cross-examination for the reason that the counsel should specially point out that portion of the witness'es testimony and call his attention to it, if any such there is, which the plaintiff claims as hearsay testimony.)

Ans. I declare that the statements I have made were grounded upon personal knowledge.

Ques. 82. Have you ever heretofore or on any previous occasion been examined or given testimony as a witness in any proceeding in which the claims of the Government and the Catholic mission at Vancouver to the land in controversy in this suit were involved?

Ans. I do not clearly recollect.

Ques. 83. Did you not in 1859 address a letter to the President of the United States and forward the same to him, accompanied by documents referred to in the letter, in which letter you stated, in

substance and effect, the same matters, or most of them, about which you have been testifying in your examination-in-chief in this case?

711 Ans. I do not remember to have done so.

Ques. 84. Did you not at some time heretofore address such a letter to the President or to the War Department and forward the same to its destination, containing, in substance and effect, the same statements, or most of them, which are contained in the testimony you have just given?

Objected to by defendants' counsel for the reason that the same is not proper cross-examination, in that the witness'*es* attention is not called to the substance of the letter.

Ans. I probably did. I reported all the facts in my possession at various times to the War Department.

Counsel for the defendants withdraws his objection to the foregoing question and resumes his right to introduce a certified copy of such letter, if any such exists, as soon as he can obtain the same from the executive department of the Government.

Ques. 85. Please examine the reference to such a letter contained in a copy of a letter of May 13th, 1859, addressed by Lord Lyons to Hon. Lewis Cass, and contained in the paper which has first been filed by defendants' counsel as *his*, defendants', documentary evidence marked "J," and say whether, your memory being thus refreshed, you recall the fact of having written such a letter.

Ans. Without understanding the point in the case, I do not doubt having written the letter referred to.

Ques. 86. Did you not in that letter strongly urge the necessity of an immediate investigation by the Government of the claims

712 of the Catholic church to the reservation ground here at Vancouver as a missionary station?

Ans. Without recognizing any claim of the Catholic mission, I undoubtedly urged a prompt investigation and settlement of the claim.

Ques. 87. Did you not in urging such an investigation in the letter use the following language: "In order that timely and proper steps may be taken to prevent the consum-ation of as subtile and nefarious a scheme of avariciousness as has of late years been attempted to be executed"?

Ans. I think I did.

Ques. 88. Did you in that letter use the following language: "Let me assure you that it is upon the strength of this very church building owned by the Hudson's Bay Co. and this same chaplaincy supported by that Co. that Bishop Blanchet now very immodestly and cool-y is attempting to clutch the whole of Vancouver by a stroke of Jesuitical fil*i*busterism"?

Ans. I undoubtedly made use of that language.

Ques. 89. Did you in that letter use the following language: "The truth is that the mission has si*l*ply squatted down on and gradually

taken possession of these premises without authority or permission from the Hudson's Bay Company"?

Ans. I did.

Ques. 90. Were you aware or informed at the time of writing that letter that the Catholic church building, the old building now standing on what is claimed as the reservation ground, had
713 then been previously solemnly dedicated and blessed according to the practice of the Catholic church by one of the priests with the permission and consent of James Douglas, chief factor, who signed his name as a witness to that dedication?

Ans. I don't remember whether I heard of that circumstance or not, but, in the opinion of the Hudson's Bay Co., nothing had taken place to prevent that company from opposing all claims of the mission to the site or ground.

Ques. 91. The company itself in its corporate capacity could entertain no opinion. To whose opinion, then, *then* as a principal officer or representative of the company do you refer in your last preceding answer?

Ans. I refer to the governor. I think it was Dugald McTavish; sustained by all the officers of the company.

Ques. 92. Was Dugald McTavish here at that time?

Ans. I think so. I could only say by reference. There was Ogden, Douglas, McTavish, &c.

Ques. 93. Do you state that, in the opinion of Mr. Douglas, the Catholic church had no right to that church property as its own?

Ans. As to James Douglas, I have already stated that he left Vancouver on my arrival and never returned subsequently. What he had done previously I know not.

Ques. 94. Do you know what the opinion of Dr. McLaughlin was as to the right of the Catholic church to that church property?

Ans. I do not.

Ques. 95. Did Mr. Ogden or Gov. McTavish either own or hold any shares in the Hudson's Bay Co. or were they hirelings
714 working for a salary?

(Objected to.)

Ans. As a matter of fact I do not know, but have heard them say that they held stock in the company.

Ques. 96. You say in your testimony that you have given that the Catholic priest here, when you first came, was merly a chaplain of the Hudson Bay Co., hired by the Co.; how do you know that fact?

Ans. In the same manner I knew that the company built the church, by inquiry and examination of the books of the company through Mr. Brook and Mr. Graham, and who was the chief trader of the company at that time.

Ques. 97. Then your information on that subject was obtained from hearsay and does not rest in your own personal knowledge; is that true?

Ans. The information was obtained officially.

Ques. 98. General, will you please answer my question whether

your information on that subject rests upon personal knowledge or information obtained from other sources?

Ans. It was obtained by an official investigation and not from personal investigation.

Ques. 99. Did you, in the course of that official investigation, either from the books of the company or otherwise, become informed that when the chief factor of the company first contributed anything to the support of the Catholic priest here that he then communicated to one of the priests, Mr. Blanchet, the statement, in substance, that he, the chief factor, had the pleasure to announce that he had been authorized by the company to contribute one
715 hundred pounds sterling per annum for the support of the priests in their labors here in consideration of their valuable services they were rendering to the natives and other people of this country by their labors?

Ans. I did not understand it as a contribution, but as a payment of services; but I don't doubt the fact of the payment of the money.

Ques. 100. How did you obtain that understanding?

Ans. From conversation with the officers of the company.

Ques. 101. With what officers of the company?

Ans. I will mention Geo. Ogden; Ballender, chief factor, who took Ogden's place, and Graham, who was at that time chief trader.

Ques. 102. Was this information obtained by you subsequent to 1849, when you first came here?

Ans. It was.

Ques. 103. You have not yet answered my previous question as to whether in the course of your investigation you became informed of the communication or a communication from Mr. Douglas to Mr. Blanchet, referred to in my previous question. I find upon looking at that communication that it was written by J. McLaughlin to the Rev. F. N. Blanchet, dated Ft. Vancouver, Nov. 25th, 1842, and is contained in what is marked plaintiff's documentary evidence "B," filed in this case, on page 5 thereof, to which letter I now refer you and ask to know whether any of the officers of the Hudson's Bay Co. with whom you conversed and from whom you obtained the supposition or belief that the priest here was the
716 hired chaplain of the company ever exhibited that letter to you in that connection or a copy of it or called your attention to the fact of its existence.

Ans. I never heard of the letter.

Ques. 104. Please state whether or not in 1860 an investigation such as you recommended in your letter of Jan. 15th, 1859, above referred to, was ordered by the Government to be had by and before Surveyor General Preston.

Ans. I have never received any information on that subject.

Ques. 105. You were here, were you not, at Vancouver until the autumn of 1860?

Ans. I was; I went off duty at the end of the 3rd quarter of 1860, the last of September.

Ques. 106. Were you before you left here advised or apprized, officially or otherwise, of a letter of date Dec. 19th, 1859, addressed by

Joseph S. Wilson, acting Commissioner of the Gen. Land Office, to James Tilton, Esq., surveyor general at Olympia, Washington Territory, referring to the claims of the Catholic mission — United States, the Vancouver town site, and the donation claim of Mrs. Short, and stating that "the purpose of this is to call upon you to make a special report in regard to the several claims in question according to the evidence," and authorizing him to call upon the parties representing the mission town and Short claims and the military authorities for all the information they had bearing upon the several claims, the extent, priority, &c., and will afford them an opportunity of being heard?

Ans. I do not recollect.

717 Ques. 107. You were not requested or required to appear as a witness on behalf of the Government in that investigation, were you, notwithstanding your letter of Jan. 15th, 1859, above referred to?

Ans. I do not recollect, and have only to say that had I been summoned as a witness I should recollect it and should have appeared.

Ques. 108. When, if you know, was the first actual survey ever made of the 640 acres of ground now claimed by the Government as a military reservation at Vancouver?

Ans. I testified yesterday that I thought it was in October, 1849. I still think so, but it may have been at a later period. I think Captain Charles Stewart made the survey for Col. Loring. I misunderstood your question. I now refer to the 4-mile square survey. The survey of the 640 acres now claimed as a military reservation was made after I left here in 1853 and before my return in 1856.

Ques. 109. What mail facilities, if any, were there at Vancouver from the time you arrived here in 1849 until you left in 1853?

Ans. Upon my arrival in 1849 the mail facilities were very poor, and sometimes an interval of several months. In 1850 and 1851 the mails arrived at least once a month, and then I had generally to go to Astoria to meet the mail; subsequently they became more frequent.

Ques. 110. Was the building which you have spoken of as annexed to the church building and which you say you rented from the Hudson Bay Co. as officers' quarters in 1850 erected before your first arrival here in 1849?

718 Ans. My recollection is that when I arrived in 1849 the church building stood by itself, but at what time this a-nex was made I do not remember.

Ques. 111. How long did you occupy that building in 1850?

Ans. Until the occupants—officers of the rifle regiment—left the place in 1851.

Ques. 112. About how many months in all do you think it was occupied by the officers?

Ans. Without reference to any accounts I cannot tell, but I should say a year.

Ques. 113. With what particular officer of the Hudson Bay Co. did you contract for the rent of that building?

Ans. With the governor of the company, Peter Skeen Ogden.

Ques. 114. Did you become intimately acquainted with Gov. Ogden?

Ans. I did.

Ques. 115. What was his religious faith, if he had any?

Ans. The Church of England.

Ques. 116. Did you or officers under your command occupy or use any portion of the church building proper for any purpose; and, if so, for what purpose?

Ans. I think that the occupants of this annex used it to some extent for purposes of storage, and I think at one time the quartermaster's department made some use of it.

Ques. 117. What was the size of that annex building and its method and character of construction?

Ans. It was a small building, made of scantling and boards, of one story, of the dimensions as it seems now. The first
719 joint of the church is the building. There has been several other additions since then. It stands on the east side of the church.

Ques. 118. Did you include that annex building in the valuation of $500 made by you of the church as it stood at that time?

Ans. It was not in my mind at the time.

Ques. 119. What was it worth, then?

Ans. Inside of a hundred dollars.

Ques. 120. You have said that there was no priest here in 1850. Do you mean to make that as a positive statement or only to the best of your recollection?

Ans. I mean to the best of my knowledge and belief.

Ques. 121. Are you willing to say that there were not several baptisms and some funerals and marriages performed in that church by a Catholic priest residing here in 1850, and including some such service almost every month in the year?

Ans. I knew nothing of it, although living within *site* of the church.

Ques. 122. What addition, annexes, or improvements, if any, were made to the church or that annex building mentioned by you up to the time you left here in 1853?

Ans. I cannot say exactly. On my return in 1856 the annexes were about as seen to-day.

Ques. 123. What is your best recollection as to whether any of those subsequent annexes were made previously to the time you left here in 1853?

Ans. In the latter part of 1852, after the arrival of the 4th infantry, I think the improvements commenced.

720 Ques. 124. Did you learn from Ogden when you rented that building from him in 1850 the purpose for which it had been erected or whether any use had been made of it previous to the time of your thus renting it?

Ans. I did not learn that from Governor Ogden, though I assumed it had been used, but understood it was discontinued or abandoned.

Ques. 125. What use did you understand had been previously made of it?

Ans. Personally I had no knowledge, but understood that it had been used for the purpose of its erection—that is, religious uses.

Ques. 126. Did you not understand that it was erected as a parsonage or residence for Catholic priests officiating at that church?

Ans. Yes.

Ques. 127. You said in your examination-in-chief that Father Delavoux, who was here when you came in 1849, left here in the winter of that year, and that there was no priest here thereafter unless it was Father Bronillette, and that no priest came until after 1850, and that you could say so positively. Do you wish still to adhere to that statement?

Ans. I will qualify it by saying to the best of my knowledge and belief.

Ques. 128. When did you yourself first become informed or apprised of the passing or existence of the act of Congress of the 14th of August, 1848, granting land to the religious societies having missionary stations in Oregon?

721 Ans. I don't remember the date. I should say that I knew it before my arrival here, so far as I can recollect, because I knew of the existence of missions on this coast.

Ques. 129. You came from California, you say, to Oregon. How long had you been in California before coming here?

Ans. I arrived in Monterey, California, from New York harbor via Cape Horn on the 10th of Sept., 1848, and remained in Cal. until the latter part of April, 1849, and arrived at Ft. Vancouver about the 12th of May.

Ques. 130. About what day of what month did you leave New York on that voyage to California?

Ans. About the 20th of April, 1848.

Ques. 131. Do you remember now to have read or heard of the act of Congress of August 14th, 1848, relating to the mission land grants in Oregon while you were in California at that time?

Ans. I cannot testify positively, but believe that I did while in Cal. or upon my arrival here early in 1849?

Ques. 132. What was the length and width and height of that first long log building which you erected here for officers' quarters in 1849?

Ans. Say that it was 75 feet long, about 30 ft. wide, and from 10 to 12 ft. in height, of one story, with a sharp, pitched roof.

Ques. 133. What was the roofing or covering of the roof?

Ans. Shingles.

Ques. 134. You spoke of one other log building erected by the military in 1849. What were the dimensions of that building?

722 Ans. Well, I think that was a log stable a hundred and fifty feet long, about 32 feet wide, with a shingle roof.

Ques. 135. You have stated, as I remember, that these were the only buildings erected or improvements made in 1849, and you have stated their value in round numbers to have been fifty thou-

sand dollars. Am I correct in that, and do you still adhere to that valuation?

Ans. I meant that the fifty thousand dollars should cover the cost of all the improvements and expenditures for all that year connected with the establishment of the post and depot. I can supply the detailed report that was made of what was expended that year. There was a great many other things done that year that cost money within the limits of the present reservation. I can't state exactly what they were, but would prefer to supply the report.

Ques. 136. Was not the work done almost entirely by the soldiers themselves?

Ans. That year; yes.

Ques. 137. What did the Government pay the private soldiers at that time who did that work?

Ans. 25 cents a day for soldiers on extra duty. Their stated monthly pay was, I think, $8.00. There was but one company of artillery here that year; the other company was sent over to the sound. I do not mean to say that much of this $50,000 went into those buildings. I mean that everything that I did in the military reservation in the establishment of the post and depot and the things connected therewith cost $50,000.

723 Ques. 138. What other improvements, if any, besides the erection of those buildings are you now able to recall to mind as having been made in 1849 upon that land?

Ans. Of absolute improvements upon the land I cannot state more definitely than I have, being separated from my papers, but will submit a detailed report if required.

Ques. 139. Of how much greater value, if any, would you estimate that church building and all annexes connected with it to have been in 1853, when you left here, over what it was in 1849, when you first arrived here?

Ans. An inconsiderable sum.

Ques. 140. Then the valuation made by the commissioners or officers who, on Jan. 23rd, 1854, in estimating values of the Hudson Bay Company's property fixed the value of that church at $2,000 and the parsonage at $1,000 was an exceedingly large overestimate, was it not?

Ans. Many years had elapsed. In making an estimate every one makes it from his own standpoint. When I left, the property where we were, as well as where the church is, possessed little or no salable value. When this board of officers assembled the situation was different. The town had sprung into importance and values were high.

Ques. 141. How much of a town was there here in 1853, when you left?

Ans. Hardly any at all, but I bought land within a mile of this in 1856 and paid five hundred dollars per acre for it and thought I was making a fortune.

Ques. 142. Was the bargain or contract which you made with Ogden for the rent of that annexed building to the church a verbal or written contract?

724 Ans. I cannot say about the contract. The agreement what should be paid, &c., was verbal, but the payments made to the company were in writing in the shape of vouchers, the duplicates of which are in my possession, the originals in the Treasury Department at Washington.

Ques. 143. You speak of leases that were made by Col. Bonneville to persons, allowing them to live within the limits of the reservation.

Ans. In all cases in writing, so far as I saw.

Ques. 144. You further say that amongst the privileges thus recorded by Bonneville you especially include privileges to the Catholic mission. Were those privileges extended to the mission in writing also?

Ans. Most of them, if not all, were in writing. I saw him write at least one myself.

Ques. 145. Those writings should be preserved among the public records and official documents of the War Department at Washington, should they not?

Ans. They should have been in triplicate; at least one copy deposited with the post records, one given to the lessee, and the other forwarded to the War Department.

Ques. 146. Was the church building and premises enclosed when you came here; and, if so, about how much ground was inclosed in the enclosure?

Ans. I believe the church building stood by itself, uninclosed, and the annexed building also, if it then existed.

Ques. 147. When you first observed the grave-yard here, in 1849, were there any Catholic crosses in it marking graves?

725 Ans. I think so.

Ques. 148. You have stated in your examination-in-chief that the church building was created and paid for by the Hudson's Bay Co. for religious services for its employees. You have no personal knowledge on that subject, but depend entirely upon hearsay information as to that, do you not?

Ans. Personally I know only what I have stated officially; individually I had no personal knowledge of it.

Ques. 149. Did you know or could you tell from any remaining indications whether the land being cultivated by the Hudson's Bay Co. when you reached here, and marked upon the map Exhibit No. 1 to your deposition as "enclosures" or "fields," were originally timbered or prairie land?

Ans. I can tell. I say that all east of the place on the map marked "Hudson's Bay Co." and orchard and Hudson's Bay Ft.—I mean the plat of ground represented as being enclosed by the lines inside of which those words are written—and all south of the old road at the foot of the bluff which is designated by the long, narrow white space south of the road marked "to Fort Cascade," being the land on the Columbia river bottom, and designated on the map by the words "enclosures" and "public pastures" was originally open land and should not be called timbered land. The parsel between the "Ft. Cascade" road and the road south of it had all been culti-

vated up to where timber is represented on the map. I think this was timbered land originally, and I think also all the land north of the square flat which includes the fort and the flat upon
726 which the fort itself stood, and all west of that and between that and the town-site blocks marken on the map up to the timber line, including the Garrison plat marked on the map, had been originally heavily timbered and had been all under cultivation by the Hudson Bay Company.

Ques. 150. Who furnished Mr. Scholl with the information or data from which this map was drafted?

Ans. He was directed by me to collect all the necessary data from the most authentic sources and to compile the map. I was often consulted, and the map was prepared under my direction.

Ques. 151. You have said that you think Ogden was the superior of Douglas in authority when they were both here together at Vancouver. Why do you so conclude?

Ans. It was simply my impression without a careful examination. Douglas did not serve here after my arrival.

Ques. 152. You have said that the priest Delavoux held religious services in 1849 and until he left—you suppose inside the stockade; but whether he held any such services you do not know? Will you state, upon reflection, that Delavoux ever held any services in the stockade in 1849, or did not hold services in that church building in 1849 after you arrived here?

Ans. Individually, I do not know.

Ques. 153. Were there many Indians accustomed to congregate and assemble here at Vancouver for trading or other purposes from the time you arrived here in 1849 until you left here in 1853?
727 Ans. There were usually great numbers of Indians on the Vancouver plains during those years.

Redirect examination:

Ques. 154. In my direct examination I forgot to ask you about the agreements made with the Hudson Bay Co. relative to the military authorities occupying this place, whether those agreements were in writing; and, if so, how many of them and what was done with them.

(Objected to.)

Ans. They were in triplicate, the original drawn by myself; the others prepared in my office—the original prepared in the presence of Governor Ogden and executed by him and myself. One copy of mine was forwarded to Washington to the quartermaster gen'l's office, one copy left in my office, and one copy deposited at the military post. Ogden, I think, scratched off a copy of my original and kept it for his own use.

Ques. 155. What search, if any, have you made for the original or the copies?

Ans. I have made all search in my power. I have searched among my own papers, I have inquiries made at Washington, a

thorough search has been made at the depot here and at the military post unsuccessfully.

Ques. 156. Have you had any correspondence with reference to finding this agreement?

Ans. Considerable during the last 4 or 5 years.

Ques. 157. Counsel for the defendants now hands to the witness a letter dated Vancouver barracks, June 1st, 1887, signed by
728 Thomas M. Anderson, directed to the witness, Gen'l Rufus Ingalls, and asks him, when did you first see that letter?

Ans. I first saw it a little prior to the 14th of June, 1887.

Ques. 158. What did you then do with it?

(Objected to.)

Ans. I then forwarded it on the 15th of June to the quartermaster gen'l in Washington.

Ques. 159. Is this your name in this letter above the words brigadier gen'l retired, brevet major general?

(Objected to.)

Ans. It is my signature, and my letter sending it to the quartermaster gen'l, War Department, Washington.

Ques. 160. When did you next see it?

Ans. On its return on the 23rd of June.

(Objected to.)

Ques. 161. Was there any indorsement on it when it returned that was not on it when you sent it?

Ans. There was. The endorsement by direction of the quartermaster gen'l as shown on the letter now submitted to me.

Counsel for defendants now offers the letter about which the witness has been testifying in evidence, which is objected to by plaintiff's counsel upon the grounds set forth in the agreement of counsel heretofore made, and which letter is received and filed by me and marked Defendants' Exhibit No. 2 to the deposition of Gen'l Rufus Ingalls.—W. Byron Daniels, referee.

Ques. 162. Counsel for the defendants will furnish further
729 and additional evidence of the loss of the agreement between the Hudson's Bay Co. and the witness for the Government, spoken of in the preceeding re-examination and Exhibit No. 2 to this deposition, before finally submitting this case; but as the witness desires to return to his home in New York and desires to have his examination completed at this time, counsel now asks the witness to state as near as he can recollect words of that agreement.

Objected to by counsel for plaintiff for all the reasons specified in the special agreement between the counsel heretofore, made and for the further reason that no proper foundation has been laid for admitting such testimony.

The witness now produces here a paper-writing which is designated by me, the referee, as Exhibit No. 3 to his deposition, and answers as follows:

Ans. I have made this paper from my memory about six weeks ago, and it is in substance and effect a copy of an agreement entered into between Gov. Ogden, of the Hudson's Bay Co., and myself, on the part of the United States, on or about the 25th day of May, 1849, and for the original of which I have made diligent search, and have been unable to find the same.

Counsel for defendant offers in evidence said paper, marked Exhibit No. 3 to the deposition of Gen'l Rufus Ingalls, and asks that the same be received and filed; to which counsel for plaintiff objects for the reason last above stated, and the said paper is
730 thereupon received and filed by me as such exhibit.—W. Byron Daniels, referee.

Ques. 163. General, you speak of the claim of the church in your letter of January 15th, 1859, as being subtile, nefarious, and avoricious. Why did you use the strong language in that letter?

(Objected to.)

Ans. Because I considered the claim preposterous and without merit, and I wished to attract attention to the necessity of an investigation.

Ques. 164. What effort, if any, was made by you after you came back the second time to the post here in the spring of 1856 to remove the church and the improvements about it from the military reservation?

(Objected to.)

Ans. I made many attempts, but my authority was overridden by the commander of the post.

Ques. 165. You say you knew of the existence of mission stations on this coast from the time you came to California in 1848. Describe what was generally understood and recognized on this coast as a mission station in 1848, when you came here.

(Objected to.)

Ans. In my opinion, formed after reading the law, it was necessary, in order to establish a mission claim, that there should be constant occupancy of the claim and that school for the education of Indians, the teaching of habits of civilization and of agriculture.

Ques. 166. Were there any such stations such as you have described in Oregon when you came here in 1849?

(Objected to.)

731 Ans. I considered that there was such a mission at the Dalles and in the Walla Walla valley and probably one on the sound. There may have been others, but no such at this place.

Ques. 167. Describe a mission station as recognized by the people generally in California in the year 1848, when you arrived there, and up to the 14th day of August, 1848.

(Objected to.)

Ans. A mission station among the Indians was considered neces-

sary that the establishments should induce the Indians to the habits of civilization. I was at a good many mission stations in California. In the first place a church building would be built and the necessary buildings for the convenience of the mission, and then they would take means to assemble the Indians.

Ques. 168. Did a mission station generally consist of a church building, a school-house, barns, farm mills around the church and under control of the missionaries, with orchards and gardens?

(Objected to as leading.)

Ans. Yes, it did. I was at 5 or 6 of the best missions in Cal.

Ques. 169. Describe some of the California missions.

Ans. A mission in Cal. is established by the missionaries under the authority of law and with the religious ceremonies of the sex to which they belong; then the necessary buildings, consisting of church, rectory, and other necessary improvements, the opening of farms, school-houses, &c. Of course the missions of De Lores differs from the mission of San Luis Obospo. They all differ according to the position they occupy, and they all have the same
732 object in view—the gradual civilization of the Indians among whom the mission is located.

Ques. 170. As a matter of fact, did Col. Bonniville make the leases that you speak of in triplicate; what is your recollection about that?

(Objected to.)

Ans. When I saw him writing a lease, it appeared to me as if he only gave the applicant a paper. Farther than that I do not know.

Ques. 171. When you speak of making leases in triplicate, as I understand you, you simply mean to say that that would have been the regular way to do it?

(Objected to.)

Ans. I do, in triplicate at least.

Ques. 172. Did you ever see any of these copies at the post filed there?

(Objected to.)

Ans. I never did. I do not know whether any was ever filed there.

Ques. 173. Where would such leases ordinarily be filed, and with whom ought they to be filed at the military reservation?

(Objected to.)

Ans. The record of duly authorized leases should be filed at the place where made.

Recross-examination:

Ques. 174. How old was the mission at De Lores, California, when you were there in 1848?

Ans. Without reference to the history I cannot say, but it was very old; it had been established a very long time.

Ques. 175. How old was the mission at San Luis Obispo in 1848?

Ans. I cannot say. The missions of California were all established under the same regime by missionaries from Mexico, and a
733 great many years before 1848.

Ques. 176. Did you ever hear any one in Cal. while you were there attempt to enumerate or designate the amount or extent of buildings or improvements which were necessary to constitute a mission, or is your answer on that subject based upon observation of what you saw at these old missions which you visited?

Ans. I frequently discussed the details touching the establishment of those missions, but cannot state that I did hear any one enumerate or designate the amount or extent of buildings or improvements which were necessary to constitute a mission.

Ques. 177. Was there any mill connected with either the mission at De Lores or San Luis Obispo?

Ans. Well, what was equivolent to mills. They had the means of grinding. I have seen at missions what stood for a grist-mill.

RUFUS INGALLS.

The further taking of testimony is adjourned until to-morrow morning at 9 o'clock.

W. BYRON DANIELS, *Referee.*

Next follow the Exhibits 1, 2, and 3 to the testimony of Rufus Ingalls. Further testimony for the defendants is continued on page 142, vol. 7.

W. BYRON DANIELS, *Referee.*

(Endorsed:) Defendants' Exhibit No. 1 to the deposition of Gen'l Rufus Ingalls. W. Byron Daniels, referee.

(Here follows map marked p. 733½.)

734 In the district court of the 2nd judicial district of Washington Territory, at Vancouver. The Corporation of the Catholic Bishop of Nesqually, in the Territory of Washington, plaintiff, *vs.* The United States *et als.*, defendants.

DEFENDANTS' EXHIBIT NO. 2 TO THE DEPOSITION OF GEN'L *of* RUFUS INGALLS. W. Byron Daniels, Referee.

In the District Court of the District of Washington Territory, at Vancouver.

THE CORPORATION OF THE CATHOLIC BISHOP OF NESQUALLY, Plaintiff,
vs.
THE UNITED STATES *et als.*, Defendants.

VANCOUVER BARRACKS, *June 15th.* 1887.

General Rufus Ingalls:—

DEAR SIR:—I have not been able to procure for the district attorney a copy of the written agreement made between you and the Hudson Bay Co. when you came here in 1849. The district attorney sends me to-day, a copy of a letter from the A. G. O. saying they can get no copy for him, do you happen to have a retain copy, or can you certify to the substance of the agreement? Please answer as soon as convenient.

Very respectfully, your obedient servant,
THOMAS M. ANDERSON,
Col. 14th. Infantry.

735 (Endorsed.)

VANCOUVER BARRACKS, W. T. *June 1st.*, 1887.

Anderson Thos. M. col. 14th. infantry, states that he has not been able to procure for the district attorney, a copy of the written agreement made between Genl. Rufus Ingalls, and the Hudson Bay Company, when he came to Vancouver barracks in 1849. Do you (General Ingalls) happen to have a retain copy?

Filed with 671, Q. M. G. O., 1887, "G."

(Endorsed.)

NO. 1 BROADWAY NEW YORK, *June 15th.* 1887.

Respectfully referred to the quartermaster genl., U. S. Army with a request that he will cause a search to be made among the papers,—letters *b*robably,—received from Captain Rufus Ingalls, assistant quartermaster, between the dates on May 20th. and December 31st. 1849, for a copy of the missing agreement. One copy was forwarded, one was filed in Captain Ingalls office, one at the post, and one kept by Gov. Ogden chief factor, in charge of Ft. Vancouver on the part of the Hudson Bay Co. This copy is required in a suit now pending between the military reservation and Catholic mission. Important records are missing.

RUFUS INGALLS,
Brig. Genl. Retired. Brevet Maj. General.

(Endorsed:) (G. 1068. Quartermaster general's office. Received June 16th, 1887.)

(Endorsed—1st endorsement.)

WAR DEPARTMENT, QUARTERMASTER GEN'L'S OFFICE,
WASHINGTON, D. C., *June 23rd*, 1887.

Respectfully returned by direction of the Q. M. genl. to Brig.
736 Genl. Rufus Ingalls, retired No. 1 Broadway, New York, with the information that, based on a similar call from District Attorney White, diligent search was made for the missing document, but no record thereof having been found in this office, report in accordance therewith, was rendered the adjutant genl. on the 28th. April last. Since receipt of this paper, another search has been made but without success.

T. G. CHANDLER,
Deputy Q. M. Genl.

1068,—87,
671—87,
Div. G.

This agreement, entered into this 25th day of May, 1849, at Ft. Vancouver, Oregon Territory, between Captain Rufus Ingalls, ass't quartermaster U. S. Army, on the part of the United States, of the first part, and Peter Skeen Ogden, chief factor of the Hudson Bay Company and governor of said company on the northwest coast of America, of the second part, witnesseth, That whereas, under the treaty of 1846, between the United States of America and Great Britain, the boundary having been defined between the two nations, the United States took civil and military possessions of Oregon Territory early in 1849; on the arrival of troops in May of that year the commander was invited to locate a military post at Ft. Vancouver, the headquarters of the Hudson Bay Company, by the said party of the second part, which being accepted and the post established the said party of the second part hereby agrees and consents that the United States may exercise whole jurisdiction and control within the limits of the so-called "possessory rights" of said company, except only such lands, buildings, and other improve-
737 ments now in use and occupancy by said company; that said party of the first part shall have full power and consent to possess and use all vacant lands and buildings and such as hereafter may be vacated, and to erect such barracks, officers' quarters, storehouses, and to create such other improvements as landings, *and* etc., as may be required for the use of the military post; that all such possessions and improvements shall always remain the property of the United States.

In witness whereof we have hereunto affixed our names and seals the year and day before mentioned.

(Signed) RUFUS INGALLS,
Captain U. S. Army.
[L. S.] (PETER SKEEN OGDEN,
[L. S.] *Chief Factor H. B. C.*)

I hereby certify on honor that the foregoing is in substance and effect a copy of an agreement entered into as purporting to have been done.

RUFUS INGALLS,
Brig. Gen'l, Retired, Brevet Maj. Gen'l U. S. Army and Captain A. Q. M., 1849.

(Endorsed:) Defendants' Exhibit No. 3 to the deposition of Gen'l Rufus Ingalls. W. Byron Daniels, referee. In the district court of the 2nd judicial district of Washington territory, at Vancouver. The Corporation of the Catholic Bishop of Nesqually, plaintiff, *vs.* The United States *et als.*, defendants.

(The end of vol. No. 6.)

738 CATHOLIC BISHOP OF NESQUALLY *vs.* THE UNITED STATES *et al.* } Referee's Report, vol. 7. Defense.

Filed November 12th, 1888.

A. REEVES AYRES, *Clerk*,
By W. H. JOHNSON, *Deputy*.

ELEVENTH DAY, 1.30 O'CLOCK P. M., *Aug.* 12, 1887.

The same parties, by their attorneys, appeared to-day as of yesterday pursuant to adjournment.

By consent of the parties the testimony of JOHN STENSGAIR, a witness in behalf of the defendants, suspended on page 61 of defendants testimony, is resumed.

Direct:

Ques. 29. Did you ever hear the priests preaching in the church before the year 1849?

Ans. Oh, yes; long before that.

Ques. 30. Who were the people you saw in the church building at the time the preaching was going on—I mean of what people were the congregation composed?

Ans. Of French—most all—of people belonging to the fort.

Ques. 31. Was there a grave-yard here in 1838, when you came here?

739 Ans. Yes, sir; you know the grove of oaks eastward of the old Catholic church; it was just above that. At that time there was not a great many graves there, but there was a good many considering the people who were here. There were no Indians buried in it.

Ques. 32. What people did they bury in it?

Ans. The people belonging to the fort.

Ques. 33. If a stranger died here where would he be buried?

Ans. He would be buried there.

Ques. 34. Were there any crosses over the graves when you first came here?

Ans. Oh, yes; Mr. Douglas and Mr. Ogden had several childen

buried here, Mr. Douglas especially. They were buried in this same grave-yard. There were crosses over Douglas' and Ogden's children's graves; every one.

Ques. 35. Why was [illegible] Catholics?

Ans. I don't believe [illegible] by Dr. McLaughlin.

Ques. 36. About how many g[illegible] that grave-yard when you came here, in 1838?

Ans. I can't tell exactly. There were a good few considering the people that were here. The grave-yard was fenced in 1838, when I came here; not much of a fence, but still it was fenced.

Ques. 37. How old was the fence in appearance?

Ans. It looked pretty old.

Ques. 38. About how many years would you say it had stood when you came here?

Ans. Five or six years, at least; perhaps longer.

740 Ques. 39. What church did the Indian women belong to who were married to the servants of the Hudson Bay Company?

Ans. The Catholic church.

Ques. 40. What about Indian -ch*h*ools for teaching the Indians?

Ans. There was no school here for teaching the Indians. They had a school inside the fort for teaching the half-breed children. It was taught by an Englishman, and not by the priests.

Ques. 41. Did you ever see the priests of the Roman Catholic church before August 14, 1848, ever preaching to the wild Indians here at Vancouver?

Ans. Never saw the priests; only the American missionaries, who preached to them here.

Ques. 42. Did you ever see the Catholic priests here at Vancouver before August 14th, 1848, teaching the wild Indian*d* anything—the cultivating of land or anything; if so, what?

Ans. Never, sir.

Ques. 43. How frequently did you hear the priests preach here or know that they preached here, from your own observation, before the 14th of August, 1848?

Ans. I never heard them but once. I had no business to go to the church.

Ques. 44. Did you see the people going to the church or coming away from the church much before August 14, 1848, and up to that time?

Ans. I saw them regularly, coming and going, every Sunday.

Ques. 45. Who were these people who were coming and going regularly to the church?

741 Ans. They were not of our side—from the old country—that went; they were all French, from Montreal.

Ques. 46. Who were these people working for?

Ans. The Hudson Bay Company.

Ques. 47. Where did these people live or stay whom you saw going to the church?

Ans. They had a large encampment for themselves, where all the Hudson Bay Company's servants lived.

Ques. 48. How about the wild Indians—I mean the savages—going to or coming from that old church?

Ans. There was a few, I believe, who never worked for the Hudson Bay Co.—a few—only very few.

Ques. 49. Where did the majority of the wild Indians that were here go or stay on Sunday?

Ans. All around about—everywhere; they were not in one place long—hunting and fishing.

Ques. 50. Did Sunday make much difference to them?

Ans. No.

Ques. 51. Did you know the Kanaka that preached here?

Ans. Yes, sir; very well; his name was William. He preached to the Kanakas in their camp, among their houses. I think he left here in 1860, when the Hudson Bay Company left; when he left I had known him six years; perhaps longer.

Ques. 52. Did you testify in this case when it was being investigated by the Land Depaetment?

Ans. No.

Cross-examination:

Ques. 53. What is your own religious faith?

Ans. I was brought up to the old Presbyterian religion.

742 Ques. 54. In what year was that old Catholic church built near the fort, if you know?

Ans. I could not really say. That must have been 1842 or 1843. I couldn't tell exactly.

Ques. 55. Were you ever in that church when preaching was going on in there?

Ans. No, sir; never.

Ques. 56. Were you ever present inside the fort when the Catholic priests were preaching inside the fort?

Ans. Never but once, and that was preaching to the Indians altogether exclusively and in their language. I went there at that time to have a child christened. The priest would not do it, but he did afterwards. When the child was presented he asked me if I would promise to bring up the child in the Catholic faith, and I said no; but he did baptize it afterwards.

Ques. 57. Did you ever hear the priest preaching or teaching the Indians in their lodges or camps?

Ans. No, sir; I never did.

Ques. 58. How do you know who were buried in the grave-yard before you came here?

Ans. I didn't know none before I came here; but I saw graves. I have three children buried there myself.

Ques. 59. You say your wife is an Indian woman. Was she a member of the Catholic church?

Ans. No; she was never a member of it. She went there sometimes.

Ques. 60. Was she ever baptized; and, if so, by whom?

Ans. She was baptized up at The Dalles by the American mission-

ary before I married her. She has never been baptized since
748 by the Catholic priest.

Ques. 61. You would not allow that, would you?

Ans. No.

Ques. 62. You must be a pretty strong Presbyterian, are you not?

Ans. Yes. I don't like to change. It is hard when you are brought up to a thing.

Ques. 63. How many of your children did the Catholic priest baptize?

Ans. Seven and more.

Ques. 64. Who, if any one, conducted religious services at their burials?

Ans. Once Bishop Blanchet, and Father Bronilet at another time; no one else.

Ques. 65. Did either of those two children die before 1848?

Ans. Oh, yes; they must have done so.

Ques. 66. Were crosses put over their graves when they were buried?

Ans. No, sir.

Ques. 67. Why not?

Ans. Because I never saw it done where I came from, and I followed the old style.

Redirect:

Ques. 68. When the priest was preaching in the fort that was the time that you went to have your child baptized?

Ans. Yes.

Ques. 69. He was preaching to Indians at that time, was he?

Ans. Yes, sir; to both men and women. All of them were working for the Hudson Bay Company. They were not French Canadians.

744 Ques. 70. Did the Hudson Bay Company have some Iroquois Indians here at that time? I mean Indians from Canada, who were brought out as hunters and trappers.

Ans. No, sir; not so far as I know.

Ques. 71. What work was it that these Indians that you saw the priest preaching to in the fort doing for the Hudson Bay Company?

Ans. Farming and voyaging.

Ques. 72. Were there many children there at that time—half-breeds?

Ans. A good many, sir.

Ques. 73. Was that the first time the priest preached here?

Ans. I guess not; but not long after the first time.

Ques. 74. Had you lived with your wife some time before you married her? I mean before the ceremony before the esquire was performed.

Ans. Yes; about two years.

Recross by consent:

Ques. 75. Did you know all the Indians to whom you heard the priest preaching in the fort at the time you speak of?

Ans. No, sir; I did not.

Ques. 76. How, then, do you know that they were all Indians who were working for the Hudson Bay Company?

Ans. I knew it because I had seen them once and *and* again ——

Ques. 77. How do you know, or do you know, that there were no Indians present except such as were engaged for the Hudson Bay Company and their wives?

Ans. Oh, I know that very well. I know there was no wild Indians working for the company.

745 Ques. 78. How do you know there were no wild Indians there listening to the preaching?

Ans. I never *seed* any.

Ques. 79. Do you swear that you knew each one of those Indians—men and women—there by their features or countenances well enough to know that there were no wild Indians among them, but that they were all working for the Hudson Bay Company?

Ans. Yes; the regular wild Indians never came near.

Ques. 80. How long had you been living here at Vancouver at the time you heard that preaching?

Ans. That was in 1843.

JOHN STENSGAIR.

Defendants next introduced as a witness on *its* behalf NAPOLEON MCGILVRAY, who, being first duly sworn, testifies as follows:

Ques. 1. State your name, age, place of residence, and occupation.

Ans. My name is Napoleon McGilvray; I am 62 years old; I reside at Vancouver; I was born in Canada, at the Lake of the Woods, and I am of French and Scotch descent. My mother was a half-breed French Canadian; my father was a Scotchman. My grandmother, on my mother's side, was a full-blood Indian woman.

The further taking of testimony in this case is adjourned until to-morrow morning, August 13th, 1887.

W. BYRON DANIELS, *Referee.*

746 TWELFTH DAY, *August 13th*, 1887.

The same parties, by their attorneys, appeared to-day as of yesterday, pursuant to adjournment.

The testimony of NAPOLIAN MCGILVRAY is resumed:

Ques. 2. When did you first come to Vancouver, and in what capacity, and where from?

Ans. In 1839; I was a mere boy. I came to keep store for the Hudson Bay Company here in Vancouver. I came from Manitoba.

Ques. 3. How long did you remain in the employ of the Hudson Bay Company after you got here?

Ans. Five years—until the fall of 1844.

Ques. 4. What were you doing?

Ans. I was keeping the provision store and all the expenses of the fort.

Ques. 5. Were there any Catholic priests here when you came here?

Ans. Yes, sir.

Ques. 6. Who were they?

Ans. Blanchet was one, and Demers.

Ques. 7. Where did they reside when here?

Ans. In the fort, inside the stockade.

Ques. 8. Did they remain here exclusively all the time?

Ans. One or the other of them always stayed around here; the other was traveling.

Ques. 9. What did the one who staid here do?

Ans. He held church services Sundays in the fort.

Ques. 10. To whom did he preach and for whom did he hold the services?

(Objected to.)

747 Ans. To the Hudson Bay Co. employees, their women and children.

Ques. 11. Up to the time you left, in 1844, where were the religious services held by the Catholic priests that you speak of?

(Objected to.)

Ans. They held services in the fort until that building—the old church building—was built, in 1844 or 1845. I don't remember just what year it was built.

Ques. 12. What is your best recollection about that building that you speak of being built in 1844, when you left?

(Objected to.)

Ans. That building was built in 1844; it must have been built, because it was there when I left, in 1844.

Ques. 13. Who built it?

(Objected to.)

Ans. It was built by the Hudson Bay Company's employees—men hired by the Hudson Bay Company.

Ques. 14. Who paid these men who were employed in building the church?

(Objected to.)

Ans. That I couldn't tell; they were employed by the Hudson Bay Co.; they were in the service of the Hudson Bay Co.

Ques. 15. What service were they in?

(Objected to.)

Ans. Carpenters.

Ques. 16. How were these carpenters employed—by the day, month, or year, or term of years?

(Objected to.)

Ans. They were employed by the term of years.

Ques. 17. What term of years for which were these employees usually employed?

(Objected to.)

Ans. Three, four, or five years; five years was about the longest time.

748 Ques. 18. Describe that church building that you speak of as having been built by these carpenters, as it appeared to you when you first saw it or as you recollect it in 1844.

(Objected to.)

Ans. It was mostly the same as it is now, only now it is longer and then it had no ste-ple; it must have been about 50 or 55 feet long, about 35 feet wide, one-story building, rather high, built out of square timber and rough lumber from the Hudson Bay Company's mills; it was framed with square timber, but I couldn't tell exactly, as I was never inside of it; there was a cross on it fixed on the gable end of the house toward the river, on the roof.

Ques. 19. How about this building being enclosed with a fence in 1844?

Ans. I couldn't recollect whether it was fenced or not.

(Objected to.)

Ques. 20. Where did you go when you left the company in 1844?

(Objected to.)

Ans. I went to French Prairie for awhile and then in 1846 to California.

Ques. 21. Where were you during the Sundays up to 1844, when you went to French Prairie?

(Objected to.)

Ans. I was here at Vancouver.

Ques. 22. Did you notice the people going to or returning from church service in that church before you left in 1844?

(Objected to.)

Ans. Yes, sir.

Ques. 23. Who were those people generally?

(Objected to.)

749 Ans. Canadians generally—employees of the Hudson Bay Company and their wives. I use the word Canadian because they had a good many other employees, such as Sandwich Islanders, Scotchmen, and a few Englishmen; they did not go to the church.

Ques. 24. How about the wild Indians in this neighborhood attending that church?

(Objected to.)

Ans. I never knew any of the wild Indians to attend that church.

Ques. 25. How about preaching to the wild Indians here at Vancouver by any one up to 1848, as far as you know?

(Objected to.)

Ans. There was some missionaries here preaching to the wild Indians occasionally, of the Methodist denomination. I recollect two of them, Dan. Lee and Jason Lee; Jason Lee was the head of the missionaries.

Ques. 26. What about Demers or Blanchet or any other Catholic priest preaching to or teaching the wild Indians here about Vancouver up till 1848, as far as you know and observed?

(Objected to.)

Ans. I have never heard of their preaching to wild Indian*d*, so far as I can recollect. I never seen them. There was no wild Indians taught here, so far as I know. I was pretty well acquainted with all the wild Indians in this section.

Ques. 27. What would have been the likelihood of your knowing the fact if Blanchet or Demers or any other Catholic priest were teaching or preaching to the Indians here at Vancouver up to 1848?

(Objected to.)

Ans. I would have known it by seeing the wild Indians
750 going to church, and that would have attracted attention—wild Indians going to church. They never preached outside the church here to wild Indians.

Ques. 28. Describe the surroundings of that church in 1844, as near as you can recollect.

(Objected to.)

Ans. Just west of the church was a few of the Hudson Bay Co.'s employees' houses; two or three, if I recollect right, west of the church. They had a few apples in their yard. They generally had a little yard of their own, where they planted potatoes and such stuff. Those houses must have been about 10 or 15 yards from the church.

Ques. 29. Name the persons who lived in these houses, if you can recollect.

(Objected to.)

Ans. One person I recollect very well, Alexander Latty, and an old man named De Charm; no more that I can recollect.

Ques. 30. Who were these two men working for or in the employment of?

(Objected to.)

Ans. They were Hudson Bay Compan*ie*'s employees.

Ques. 31. Further describe the surroundings of the church in 1844.

(Objected to.)

Ans. About 50 yards northeast of the church there was a grist-mill, an old abandoned grist-mill that went by horse power. There was a good many little oaks and it was very brushy, and southeast

of the church the Hudson Bay Co.'s fence came up close to the church, enclosing the fields and orchards of the Hudson Bay Company. Directly southwest of the church was the village of the Hudson Bay Co.'s employees. There was a grave-yard north-
751 east of the church, about 200 yards from the church; it was used to bury the dead of the employees of the Hudson Bay Company; there was a rough fence around it.

Ques. 32. Did you notice that fence around the grave-yard in 1839, when you came here?

(Objected to.)

Ans. Yes, sir.

Ques. 33. What was its appearance as to being old or new?

(Objected to.)

Ans. It appeared to be old; partly picket fence and partly rails.

Ques. 34. Any other grave-yard about here at that time?

(Objected to.)

Ans. No, sir.

Ques. 35. About how many graves were in the grave-yard when you first noticed it in 1839, when you first came here?

(Objected to.)

Ans. Oh, they might have been about 15 or 20; people did not die very fast those times.

Ques. 36. Were any of these graves marked with a cross?

(Objected to.)

Ans. Some of them had crosses and some only head boards.

Ques. 37. Where did the priests board, take their meals, up to 1844, when you left?

(Objected to.)

Ans. They boarded in the fort, had their rooms there and boarded there at the kitchen of the Hudson Bay Company.

Ques. 38. Who was in charge of the Hudson Bay Company as chief factor from the time you came until the time you left in 1844?

(Objected to.)

752 Ans. Generally two here, Dr. John McLaughlin and Jas. Douglas.

Ques. 39. What was Dr. McLaughlis's religious belief?

(Objected to.)

Ans. Catholic.

Ques. 40. What was James Douglas' religious belief?

(Objected to.)

Ans. Protestant; Church of England.

Ques. 41. Do you know when Dr. John McLaughlin became a Catholic?

(Objected to.)

Ans. I know that he became a very strong Catholic in the Hudson Bay Companie's fort.

Ques. 42. Were there any schools here from the time you came until you left, in 1844; and, if so, where were they?

(Objected to.)

Ans. There were schools inside the stockade; the Hudson Bay Co. kept a school up. No others that I know of.

Ques. 43. Who were taught at this school kept uo by the Hudson Bay Co.; what children or persons?

(Objected to.)

Ans. The children of the employees and officers of the Hudson Bay Company.

Ques. 44. Can you name any of the school teachers who taught there; and, if so, do so?

(Objected to.)

Ans. There was one named Holland, and when he left another came, named Bartlett. That is all the teachers I recollect.

Ques. 45. When you left in 1844 you say you went to French Prairie, now in Marion county, Oregon. How long did you stay there and how frequently were you at Vancouver up to the time you went to California in 1846?

(Objected to.)

753 Ans. I must have been here at Vancouver half a dozen times, back and forth.

Ques. 46. When did you come back from California?

(Objected to.)

Ans. I went from California to Missouri, and came back here from Missouri in the fall of the year 1848, the latter end of August.

Ques. 47. How long did you stay here that time?

(Objected to.)

Ans. A couple of days.

Ques. 48. What, if any, change did you notice about the church building on which the cross was, and its surroundings.

(Objected to.)

Ans. I did not take any notice at that time.

Ques. 49. What direction was the Hudson Bay Co.'s fort and stockade from the church?

(Objected to.)

Ans. It was southeast; it must have been about 400 yards to the stockade.

Cross-examination:

Ques. 50. Did you ever attend any single religious services held by the Catholic priests here at Vancouver between 1839 and 1844?

Ans. Yes, sir; inside the fort; once or twice I recollect of.

Ques. 51. Do you undertake to say on oath that the Catholic priests did not preach to or teach the wild Indians in their huts or lodges here at Vancouver between 1839 and 1844, or do you mean simply to say that if they did you do not know it?

Ans. If they did I don't know it. I could not undertake to say they did not.

754 Ques. 52. About what hour of the day on Sundays did the Catholic priests generally hold service in their church between 1839 and 1844?

Ans. They held service every Sunday morning generally, and at different times during the week.

Ques. 53. Was the Catholic church service in the church and the Protestant service in the fort generally held at about the same time of day?

Ans. Yes; so far as I can recollect. I used to go to the Protestant church at the hall where they held it.

Ques. 54. Where were you from the spring of 1859 to the fall of 1862?

Ans. I was here in this Territory, in Clarke county, the same county in which Vancouver is situated.

Ques. 55. Were you called upon to testify before the surveyor general of Washington Territory in a controversy or investigation of the claims between the Catholic mission, the United States, Short's heirs, and the town of Vancouver, which was had and held between those years?

Ans. No, sir.

Ques. 56. Of what religious faith, if any, are you?

Ans. I am a Protestant.

Ques. 57. Will you undertake to say that the Catholic priests Blanchet and Demers, or one or the other of them, did not baptize a great number of Indians here at Vancouver between 1839 and 1844?

Ans. I knew of their baptizing all of the children of the Hudson Bay Company Catholics, but I never knew of their baptizing wild Indians.

755 Ques. 58. How did you know that they baptized the children of the Hudson Bay employees or any of them; did you see it done or simply hear so?

Ans. I heard it and seen them take their young children for the purpose of getting them baptized. The parents of the children said that was the purpose for which they took them to the church.

Ques. 59. Did you know Joseph Petrain here between 1839 and 1844, the man who was afterwards county judge of Clarke county?

Ans. Yes, sir; I knew him intimately; he is now dead.

Ques. 60. How far from Vancouver did you reside from 1859 to 1862?

Ans. About 8 miles.

Ques. 61. You were quite well known in the county and to many of the citizens of Vancouver, were you not?

Ans. I guess so.

Ques. 62. When did you first take up your permanent residence in Clarke county?

Ans. In the year 1854.

Redirect:

Ques. 63. What was Joseph Petrain's religious belief?

Ans. He was a Roman Catholic, and appeared pretty strong in his belief.

Ques. 64. Did you ever hear Blanchet and Demers or either of them say anything about what they were doing when they were off away from the fort on trips?

(Objected to.)

Ans. No; I never heard them say.

Ques. 65. What places other than Vancouver did Demers or Blanchet preach at from 1839 to 1844?

(Objected to.)

756 Ans. At the Cowlitz, Nesqually, French Prairie, called St. Paul afterwards.

Recross:

Ques. 66. How do you know that either Demers or Blanchet preached at Cowlitz, Nesqually, or French Prairie from 1839 to 1844?

Ans. I know they preached from what the French said who came here; I never heard them.

Redirect:

Ques. 67. Who preached at French Prairie for the Roman Catholics from 1844 to 1846?

(Objected to.)

Ans. I could not tell. There were a good many priests there—Blanchet, Bolduc, and others.

Recross, by consent:

Ques. 68. Did you ever study book-keeping; and, if so, when and where?

Ans. I studied it slightly in Manitoba, at the school there.

Ques. 69. Did you ever keep books anywhere before you came here?

Ans. No, sir.

Ques. 70. Did you ever keep store anywhere before you came here?

Ans. No, sir; I had just come out of school.

Ques. 71. You was a 14-year-old boy when you arrived here, were you not?

Ans. Yes, sir.

Redirect, by consent:

Ques. 72. Did the Hudson Bay Co. sell and dispose of provisions to the Indians in the store which you kept for them?

Ans. No, sir.

Ques. 73. What was your particular business and duty about the store?

757 Ans. Dealing out the expenditures of the fort—nails, provisions of all kinds, liquors.

Ques. 74. To whom did you report your doings of the day, if to any one?

Ans. To a chief clerk. I had a book of my own that I entered everything in. During the nights I entered in a large book kept in the office what I had done during the day.

Ques. 75. How did you receive your orders to dispose of these goods and from whom?

Ans. From the head clerk.

Ques. 76. Who came to get the goods?

Ans. The different employees of the company. The stewart would come and get provisions for the fort; carpenters would come and get nails; blacksmiths would get their iron and weigh their irons which they had finished—axes, &c.—and return them to me.

Ques. 77. What is your recollection of the nails and iron that were used in building the old church; how were they delivered?

Ans. They were delivered to the carpenter that came for them, and I can't recollect how they were charged.

Recross-examination:

Ques. 78. Who else beside yourself, if any one, assisted in the same sort of business you were doing and in the same room in which you worked as you have just stated?

Ans. I was alone in the store, but the head clerk was the overseer of all.

NAPOLEON McGILVRAY.

758 The defendants next introduced as a witness in their behalf CHARLES J. BIRD, who, being first sworn, testified as follows:

Ques. 1. State your name, age, place of residence, and occupation.

Ans. My name is Charles James Bird; I am 51 years old; I reside in Clarke county, Washington Territory, and I am by occupation a farmer. I live on 4th plain.

Ques. 2. When did you first come to Vancouver?

Ans. In December, 1843, with my mother, sister, and brother. My mother was a widow woman. The Hudson Bay Company gave my mother a passage out to this country.

Ques. 3. Where have you resided since 1843, when you came here?

Ans. I resided until 1844 (the fall) in Washington county, Oregon. Then I resided in Vancouver until June, 1846, when I moved to 4th plain, and have resided there ever since, except the year—1849 to 1850—I spent in California.

Ques. 4. How old were you in 1843, when you got here?

Ans. I was nine years old, about. I was past eight; going on 9.

Ques. 5. How frequently were you in Vancouver from 1844 to August 14th, 1848?

Ans. Well, I had resided here a year at one time—from the fall of 1844 to June, 1846—and then was afterwards here about once a week.

Ques. 6. Do you know the building upon the military reservation here known as the old Catholic church?

Ans. Yes, sir.

Ques. 7. How frequently have you been in that church
759 building while religious services were being held there from 1844 to August the 14th, 1848?

(Objected to.)

Ans. Probably not more than once, and I don't believe I was ever in the old church more than twice in my life; two or three times or something along there.

Ques. 8. Between 1844 and August 14th, 1848, what observation, if any, as to the people going to and returning from that church on Sundays to attend religious services?

(Objected to.)

Ans. I was in Vancouver frequently, and I would see them going back and forth—the Hudson Bay Company's hired help and their families, consisting of Indian women and children; their wives were mostly Indian women at that time.

Ques. 9. What about the Indian tribes having villages or encampments permanent in their nature in and about where Vancouver now is and the military reservation is?

(Objected to.)

Ans. Well, I don't know as there were any permanent; they camped along the river at different times; came here to trade with the Hudson Bay Co., and moved about from place to place—sometimes fishing and hunting.

Ques. 10. What about the wild Indians who camped here at Vancouver or about here attending the religious services held in the old Catholic church from the time you came until August 14th, 1848, as far as your observation went? State fully.

(Objected to.)

Ans. I never saw any Indians camped here for that pur-
760 pose; never saw any but the Hudson Bay Company's hired help and their friends attending the church.

Ques. 11. Do you know anything about a grave-yard here in 1844 and up to August 14th, 1848?

(Objected to.)

Ans. Yes, sir; I do. My sister, older than I, and my brother, younger than I, died here in 1844 and were buried in the grave-yard, up among the oaks, near where the Garrison buildings are now. My mother was also buried there in 1855.

Ques. 12. About how far and in what direction was that grave-yard from where the old Catholic church in the reservation is now standing?

(Objected to.)

Ans. It is about 200 or 250 yards northeast of the Catholic church.

Ques. 13. Were your mother, brother, and sister Catholics?

(Objected to.)

Ans. No, sir; they were Episcopalians.

Ques. 14. What, if any, other grave-yard was there here from 1844, when you came, up to 1855, when your mother was buried here, at Vancouver?

(Objected to.)

Ans. I believe there was no other.

Ques. 15. Was that grave-yard used as a common burial ground for all persons except the wild Indians who died here prior to 1855, or was it used exclusively for those of the Catholic faith?

(Objected to.)

Ans. The grave-yard was used for every one. Everybody who died around here was buried there, whether they belonged to the Catholics or not. I don't know that there — any wild Indians buried there.

761 Ques. 16. Did you know Napoleon McGillvray, who now lives in Clarke county, in the city of Vancouver, or his father's family? I mean the Napoleon McGillvray who worked as a clerk in the Hudson Bay Compan*ie*'s fort here the year you came here.

(Objected to.)

Ans. Yes, sir; I know him. I never knew him until after I got here. I knew his mother and brother and sisters in the Red River country. They lived neighbors to us there quite a while.

Ques. 17. What connection was his father reputed to have had with the Hudson Bay Co. in that country?

(Objected to.)

Ans. He was chief factor.

Cross-examination:

Ques. 18. Where were you living from the spring of 1859 to the fall of 1862?

Ans. On 4th plain, about 7 miles from Vancouver.

Ques. 19. Were you generally known among the people here at that time?

Ans. Yes, sir; most everybody knew me.

Ques. 20. Were you called upon or requested or summoned to testify as a witness before the surveyor general of Washington Territory in an investigation had between those years of the respective rights and claims of the United States, the Catholic mission of St. James, Short's heirs, and the town of Vancouver to the land on which the town and the military reservation are now situated?

Ans. No, sir.

Ques. 21. When you first came here was there a small
762 house here, then known as the Catholic church building, on the site of the present old church or thereabout?

Ans. No, sir; when I first came here the Catholic priests lived in the Hudson Bay Company's fort and preached in a small building near the center of the fort. Some years afterwards the Hudson Bay Company built them a church outside the fort, on the ground where the old church now stands. I don't know what year.

Ques. 22. Was there a small room or addition to the church on the east of it, adjoining, built the same time the church was built?

Ans. There was such a room or addition, but I don't know when it was built. I don't know when the church was built. I think it was built about the time the church was built.

Ques. 23. Do you know the purpose for which it was built or used?

Ans. For the priests to live in.

Ques. 24. Did you ever attend religious services at any time in that church building?

Ans. Yes; I was there once or twice. I am not sure how many times. It was some time between 1844 and 1845, but I am not sure as to the year.

Ques. 25. Who officiated in the church at that time you was there?

Ans. I don't remember whether it was Bronillett or Blanchet. It could not have been Bronillett. It was one of the old priests.

Ques. 26. Did you ever see or know, between 1844 and 1848, of any Catholic priests or priests preaching to or teaching the wild Indians in or near their huts or lodges when they were camped here?

763 Ans. No, sir; I never knew of it. I never knew of their preaching to the wild Indians at this place.

Ques. 27. Which direction from the Hudson Bay fort did the wild Indians generally camp when they came here?

Ans. They generally camped along the river, above the Government wharf, and another great camping place was up the river about 2 miles, at the Wirt Nye place. Their principal camping place was just above the Government wharf, where a slough came in. There they used to gamble and carry on at a great rate.

Ques. 28. Do you know whether or not the Catholic priest did preach and teach the wild Indians in their lodges and encampments you have named?

Ans. I do not know.

Ques. 29. About how many wild Indians did you see encamped here at any one time at those two camping places you have named?

Ans. That I could not tell. There was hundreds of them around here then.

CHARLES J. BIRD.

Defendants next introduce as a witness in their behalf SILAS D. MAXON, who, being first duly sworn, testifies as follows:

Ques. 1. State your name, age, place of residence, and occupation.

Ans. My name is Silas D. Maxon. I am 63 years old. I reside in Vancouver, Washington Territory. I am not doing anything now; have been a merchant for a number of years, until my health gave out.

764 Ques. 2. When did you first come to Vancouver, Washington Territory?

Ans. In 1847.

Ques. 3. Where did you locate after you came here?

Ans. I was here only two or three weeks. I then went to the neighborhood of Salem, Oregon. I returned here in the fall of 1849 and located then at Washaugal, in the upper end of Clarke county. I staid there until the winter of 1850. I then located on a donation land claim 7 miles above Vancouver, where I lived until 1860, and then moved to Vancouver, and have resided here ever since.

Ques. 4. From 1847 up to 1850, state what you know about Catholics priests being here at Vancouver.

(Objected to.)

Ans. I knew but very little about Catholic priests being here.

Ques. 5. Who was the first Catholic priests you became acquainted with at Vancouver?

(Objected to.)

Ans. I first became acquainted with (Kanaka) William. He was called a priest among the Sandwich Islanders. The first white man Catholic priest I got acquainted with was Bronilett; this was along in the latter part of 1851 and 1852, and I was acquainted with him as long as he remained.

Ques. 6. What was he doing here in 1851?

(Objected to.)

Ans. He was in an old building there is up here. I don't think I was in it any time before 1853. I passed it frequently and met him outside; he was dressed as a priest and had the reputation of being a priest.

Ques. 7. Did you hold any official position in Clarke county after you came here?

(Objected to.)

765 Ans. I was county treasurer in 1850, 1851, and 1852, in this county; in 1853 I was assessor in this county.

Ques. 7. About what time was the assessment made in 1853?

Ans. I think from the last of April to the first of June. I am not quite positive, but that is my recollection.

Ques. 9. Did you call upon Father Bronilett for his assessment in 1853?

Ans. Yes, sir.

Ques. 10. State what conversation occurred between you and Father Bronilett at that time, as fully as you now can recollect it, and where was the conversation at.

(Objected to.)

Ans. He was standing in the door of the building upon the reservation known as the old Catholic church and I was standing outside. I told him I wished to get a list of his property and the number of persons in his employ or in his house. I was taking the sensus at the same time. He said he had nothing. I told him I wanted to get the names of the persons living with him. He said he had no one at all and no property; there was no use to go in. I told him I wished to go in and see, and I started and went in. I didn't find any person and I didn't find any property except a few blankets. I told him, then, I guess you are joking with me; you are surely here for some purpose. I said you want to evade your assessment. I don't like to be served so. He said he had told me the truth, and I told him, How do you come to be in the house if you haven't anything? He said the house was vacant
766 and he just went in as others was doing. I don't know as I had any other conversation with him. I told him I would take his name and age.

Ques. 11. Where was the house that he was living in?

(Objected to.)

Ans. It was the same house that is the old church now. It was not so large then as now.

Ques. 12. What part of the old church was it that he dwelt in?

(Objected to.)

Ans. His things were in the back part of the house. It was a large room, quite a large one for the houses that were here then outside the fort. It was all one room. There was a place fixed up, where the blankets were, that looked as though he slept there. There were some benches there. I saw no altar there. I think there was two benches, one on each side of the house, and some short ones used to sit on.

Ques. 13. There is a tower on the front of that building now, is there not?

(Objected to.)

Ans. Yes; there is a tower on it now. There was none then.

Ques. 14. Does the front door of the church open into the tower?

(Objected to.)

Ans. The door that was there then now opens into the tower.

Ques. 15. What door was it that you went in at when you went there to make that examination?

(Objection.)

Ans. It was that front door which is now enclosed by the tower.

Ques. 16. Have you stated all that you recollect that Bronilett said to you at that time?

(Objected to.)

767 Ans. There was one thing I recollect. I said to him, What are you doing in this house if you have nothing in it or no person with you? He said, I came on to look after our people. He said, there was a good many in the garrison who belonged to the Catholic church.

Ques. 17. State the surroundings of that church at that time when you had that conversation with Father Bronilett.

(Objected to.)

Ans. There were other buildings in the neighborhood, both in the front and rear. They were generally small buildings; had been occupied by the Hudson Bay Company's servants. Some of them are occupied at this time. Right west of the church there was a building occupied by Morris Baker and his family. He was an employee of the United States Government. This wus about 20 feet west of the church. It has been recently removed. There was no fence around the church or the house Baker was in at that time. There was a house a little east of the church and back further than the front of the church, about 30 feet from the church, and standing back north from the front of the church about the same distance.

Ques. 18. Were you acquainted with the locality where that church stood in January, 1887, about the time this suit commenced? Had you observed it for several yeard prior to that time?

(Objected to.)

Ans. Yes; I have been passing and repassing constantly a great deal of the time. There has not been a day that I have not passed in *site* of it since 1860. I have been constantly in town.

768 Ques. 19. Describe in relation to fences, enlarging the church building, or any change of that kind that took place in or about that church after the time, on 1853, you had the talk with the priests.

(Objected to.)

Ans. At the time I had that talk in 1853 there was no fenciug there. After that, a year or so, they put up fences and made gardens in the garden near the little house adjoining the church. They enclosed about 4 acres altogether at different times. In January, 1887, they had some orchard trees and were raising garden

and vegetables of different kinds. They kept enlarging the church from time to time.

Ques. 20. Do you know whether there is a school-house up there on that 4 acres?

(Objected to.)

Ans. Yes; it was built some ten years after 1853; all of that, and after the fences were put up.

Defendants' counsel here calls the attention of the witness to Defendants' Documentary Exhibit "N," to the map in said exhibit, marked "Map of the military reservation" at Fort Vancouver, W. T. surveyed under the direction of Captain George Thom, topographical eng'rs, by Lieuts. J. B. Wheeler and J. Dixon, corps topographical engineers, by order of Brig. Gen'l W. S. Harney, 1859," and asks the witness to point out on said map about where the Catholic church that he has been speaking of was located in 1853, at the time he had the conversation with the Priest Bronilett.

(Objected to.)

Ans. This map looks to me as though it was different from the way I understood it, but I am satisfied that it is very
769 nearly correct. The Catholic church would be where that long, square block is in the enclosure on this map, marked "Catholic mission."

Ques. 22. Was there an L, as represented on this map, to the church building in 1853?

(Objected to.)

Ans. No; but there was a small building that stood out about 30 feet from the northeast corner of the church, but this was afterwards extended to connect it with the church building.

Ques. 23. Point out on this map where the house occupied by Morris Baker was situated.

(Objected to.)

Ans. It was located where the first little square block is marked on this map, west and nearest to the church.

Ques. 24. What about there being fences around the plat of ground on that map marked "Catholic mission," which plat is divided by lines into three parts, in 1853, when you had the conversation with Bronilett at the time you were making assessments?

(Objected to.)

Ans. There was no fences around it then.

Ques. 25. Was there any cemetery or grave-yard here at that time, in 1853?

(Objected to.)

Ans. Yes; there was one up in the oak grove, north and east of the church; it was considerable north and east, I think.

Ques. 26. Where would the shool-house be located that you speak of as having been built some ten years after 1853?

(Objected to.)

Ans. It would be north and west of the church; somewhere in the square marked on the map "Catholic mission."

770 Ques. 27. Did the surveyor general of Washington Territory call upon you to assist in surveying off the Catholic mission in the military reservation; if so, when?

Ans. He notified me by letter to be on hand at a certain time to prove to him what the mission had enclosed at the time of the passage of the donation law. I think this was in 1861 or 1862. I did not go. He did not call on me. I asked him in the evening why he did not call on me, and he said the bishop acknowledged just what I was called on to swear to.

(Objected to.)

Ques. 28. What about the priests preaching or teaching the wild Indians in that church building, so far as your observation went, from the time you came to this country to the present time?

(Objected to.)

Ans. I never saw a wild Indian go into church in my life.

Ques. 29. What persons attended the church, as far as your observation went, at that time?

(Objected to.)

Ans. A good many soldiers of the U. S. Army and their wives and children and the old Hudson Bay Company's servants, who had retired from its service, and their families—that is, the Catholic portion of such servants.

Ques. 30. When was the first time you ever heard it mentioned as the "Mission of St. James"?

(Objected to.)

Ans. I never heard it, to my knowledge, previous to 1860.

Ques. 31. What attention, if any, was given by the priests to the spiritual welfare of the wild Indians here at Vancouver or at the church after you came here?

(Objected to.)

771 Ans. I never knew of any wild Indians going to the church. I never saw the priests visiting any of the wild Indians camped around here. The Indians came here to trade, and as soon as they got through they went away. The priests may have visited them in their camps, but I never saw them do so.

Ques. 32. When did the Catholic priests begin to have schools here?

(Objected to.)

Ans. I don't recollect of their having any schools until about 1858.

Ques. 33. When you came here in 1847 who was occupying the lands in and about where the military reservation now is and in and about where the town of Vancouver now is?

(Objected to.)

Ans. The Hudson Bay Company. They were doing a general merchandising at their place in the stockade, and were farming in this neighborhood, at Mill plain, 4th plain, and 3rd plain, all north of the Columbia river, in Clarke county; and they had another farm down the river here about a mile, where the Proulx farm is and the old Petrain farm is.

Cross-examination:

Ques. 34. In what month in 1847 did you first come here?

Ans. My recollection is that it was the fore part of October.

Ques. 35. Were you here at Vancouver between that time and the fall of 1849?

772 Ans. Yes; I was here twice. My first visit was some time in April, 1848. I was here only one day at that time. My second visit was along the first of July, 1849.

Ques. 36. Did you assess that church building to any one in 1853?

Ans. No, sir.

Ques. 37. Did Father Bronilett tell you in that conversation at the church door in 1853 how long he had been here at that time?

Ans. No, sir.

Ques. 38. Did he have any bed in that room when you went besides mere blankets?

Ans. I could not see anything under the blankets; did not look as though there was any bed to amount to anything.

Ques. 39. Do you know what was in that room or building that you said stood nearest to the church at that time?

Ans. In the one on the west side Morris Baker and his family lived. I don't know how long Baker had been living there—possibly six months or a year.

Ques. 40. Do you know whether Petrain ever lived in that house?

Ans. I don't know.

Ques. 41. Was the little house then standing which you say has been since united to the church and made a part of it?

Ans. Yes; it was standing there then.

Ques. 46. Was it occupied at that time?

Ans. Yes, sir. I don't know by whom. He was a laborer for the Government. I understood he had no family, and the door was closed.

Ques. 43. Were there any Catholic crosses in that cemetery in 1853?

Ans. I think I saw 2 or 3.

773 Ques. 44. Were you ever there before 1853, and did you see any crosses the first time you were there?

Ans. Yes; I saw crosses there in 1850 and 1851.

Ques. 45. What was it that the surveyor called on you to swear to, which you said he said the bishop had acknowledged?

Ans. The amount of land enclosed at the time of the passage of the donation law. I told him he hadn't any.

Ques. 46. Who was that surveyor general?

Ans. His name was Beach.

Ques. 47. Was that before or after Surveyor General Preston?

Ans. Afterwards. That was in the year 1871 or thereabouts.

Ques. 48. Did you visit much among the wild Indian camps or lodges here during the 2 or 3 weeks you were here in 1847?

Ans. No; not very much—the fact is, there was very few of them here. They were fixing up for the Cayuse war at that time, and did not show themselves much among the settlements.

Ques. 49. Have you taken any part in the controversy between the Catholic mission at St. James and the citizens of Vancouver as to the ownership of land claimed by those parties, constituting a part of the town of Vancouver?

Ques. Ans. Yes; rather an active part. I don't think I can say exactly against the mission. I don't think I was any more for the mission than the city. I was a member of the city counsel, and wanted to get it settled.

Ques. 50. Did you get it settled?

(Objected to.)

Ans. Yes, sir.

774 Ques. 51. How did you settle it?

(Objected to.)

Ans. We settled it by buying the mission claim off that part of the city that they claim.

Ques. 52. How much did you pay the mission?

(Objected to.)

Ans. By agreeing to pay so much by each individual according to the location of his lots, which the mission was to collect from the people. I amongst others volunteered and went up and paid mine. I paid about $30; I don't really recollect just how much.

Ques. 53. About how much in all did these assessments amount to upon the citizens, if you know?

(Objected to.)

Ans. Well, I don't know; but I think it was between $4,000 or $5,000 *dollars.*

Ques. 54. Did the citizens make that settlement under the advise of legal counsel?

(Objected to.)

Ans. Yes; under the advice of J. N. Dolph, who was the partner of plaintiff's counsel, who is now interrogating me.

Ques. 55. There was previously to that settlement and at the time of the settlement, and has been ever since, a great deal of feeling against the Catholic church and the St. James mission among the

citizens of Vancouver on account of the claim of that church to that property, was there not?

(Objected to.)

Ans. Well, I don't think there was; there were some exceptions, but I don't think I ever heard of much dissatisfaction.

Ques. 56. Who did you ever hear say that he or she was satisfied with the fact that the priests laid claim to this ground? I mean outside of the members of the Catholic church.

775 Ans. I can't recollect of anybody now.

Ques. 57. Have you not heard a good many express strong dissatisfaction against the claim?

Ans. Well, I think I shall answer yes; I thought the question was if I could not name a good many who had expressed a satisfaction, and I could not recollect names.

Ques. 58. Were not you yourself strongly dissatisfied that the church set up a claim to this property as a mission station here?

Ans. Yes.

Redirect:

Ques. 59. When was that settlement had?

Ans. I think it was in the year 1877.

Ques. 60. Had the town got a patent for the land at that time?

Ans. I think not.

Ques. 61. Did they get one afterwards?

Ans. I think a patent was gotten after all the settlements were made.

Ques. 62. What was the chief inducement for the settlement?

Ans. So we could get the cloud off the title and go on with business.

Ques. 63. About how many acres did the Catholic mission claim was in the town of Vancouver?

Ans. I think about three hundred acres, taking the gore the town got and the land on the Short claim.

Ques. 64. About what was the value of the gore which the city afterwards got by patent at the time you made the settlement, in round numbers?

776 Ans. I should think about $10,000.00. Then after the title was settled it was more valuable and was worth twice that.

Ques. 65. Did all the people owning lots agree to your settlement and finally pay the mission?

Ans. I think they all agreed to it, as far as anything I knew about it. I don't think all paid.

Ques. 66. Is this settlement in writing?

Ans. Yes.

Ques. 67. Are the deeds a matter of record?

Ans. I think they are.

Ques. 68. Was that part of the Short claim on which is built a part of the town of Vancouver included in that settlement?

Ans. Yes; I understood it was.

Ques. 69. About what was it worth before and after the settlement?

Ans. I should say at least $15,000 before the settlement and at least $30,000 afterwards.

SILAS D. MAXON.

The further hearing in this cause is now, by consent of counsel, adjourned until Monday, August 15th, 1887, at 9 o'clock a. m.

W. BYRON DANIELS, *Referee.*

777 THIRTEENTH DAY, *August 15th*, 1887.

The same parties, by their attorneys, appeared to-day as of yesterday, pursuant to adjournment.

Defendants introduced as a witness on *its* behalf LLOYD BROOKE, who, being first duly sworn, testified as follows:

Ques 1. State your name, age, place of residence, and occupation.

Ans. My name is Lloyd Brooke; I am 68 years old; I reside in Portland, Oregon, and I am by occupation an employee in the United States quartermaster's department as transportation agent.

Ques. 2. When were you first at Vancouver and in what capacity and how long did you remain the first time?

Ans. I was first at Vancouver in May, 1849, as clerk in the quartermaster department of the U. S. Army, under Captain Rufus Ingalls. I lived here at Vancouver until March, 1853.

Ques. 3. Do you know where the old Catholic church in the military reservation is situated?

Ans. I do.

Ques. 4. What building, if any, was there at that place in 1849, when you came here, and up to March, 1853?

Ans. I can say what was here when I came here, but what was here when I went away I can't be so positive about. There was a small portion of the present church building here when I came here, with a wing on the east side, fronting south. The wing,
778 I should say, was about 20 or 30 feet, not to exceed 30, across the front. It was built up against the church building on the east side, near the back end. The church projected south beyond the front of the wing.

Ques. 5. State what these buildings, the church and wing, were used for when you came here.

Ans. The wing was unoccupied and unfinished in the main building; services were held Sunday mornings as at other churches for the Canadians and their wives.

Ques. 6. Who were the Canadians?

(Objected to.)

Ans. Employees of the Hudson Bay Company.

Ques. 7. What Catholic priest was here when you came here, if any, at Vancouver?

(Objected to.)

Ans. His name was Delavoux.

Ques. 8. Where did he preach and where did he live when you came here?

(Objected to.)

Ans. He preached in this church; he lived within the enclosure of the Hudson Bay Company and in one of their buildings.

Ques. 9. Was this church building and wing used for any other purpose than religious purposes from 1849, when you came here, until the time you left in March, 1853; if so, what?

(Objected to.)

Ans. The wing was rented by the quartermaster's department of the United States Army for U. S. Army officers' quarters, and was occupied by an officer I can't tell how long; they were rented from the Hudson Bay Company.

Ques. 10. Who negotiated the renting of those buildings from the Hudson Bay Company?

(Objected to.)

Ans. It was done by Captain Ingalls through me. I acted
779 under his orders.

Ques. 11. With what person did you negotiate the renting of these buildings?

(Objected to.)

Ans. With Peter Skken Ogden, the chief factor of that company.

Ques. 12. State the conversation which occurred between you and he at the time you rented these buildings.

(Objected to.)

Ans. I asked him if he would rent that wing to the quartermaster's department for officers' quarters? He said, Yes; and the church, too, if you want it; it belongs to the company.

Ques. 13. Was the Catholic priests who were preaching here for the Catholic people about here when that building was rented to you and while it was occupied? What, if anything, did they say about it?

(Objected to.)

Ans. The services were held in the church during the time the wing was occupied; whether he was here when it was rented or not I don't know. He said nothing about it while the Government was occupying it. This priest's name was Father Delavoux.

Ques. 14. Describe the surroundings of that church as near as you can.

(Objected to.)

Ans. On the west and fronting east there was a small hut occupied by a Canadian and his family who was a cart-driver, in the employ of the Hudson Bay Company; still farther west and a few feet distant from the first hut was a rather larger house occupied by

another servant of the Hudson Bay Co. The house farthest west was within 75 feet of the church; that is all in that section that was very close. There was nothing in the rear of the church
780 that I remember, except a small enclosure which butted up to the rear of the church building, about 30 feet square, in the shape of a corral; the fence was of pickets, not as high as the Hudson Bay Co.'s pickets. There was nothing on the east side of the church building but that wing; nothing within 400 yeard- (I may be incorrect as to distance), where there were two unfinished buildings two stories high, built by the Hudson Bay Co. for schoolhouses; they were commenced but never finished. They were rented by the quartermaster's department for storehouses from the Hudson Bay Co. The Hudson Bay Co.'s fort was southeast of the church, in the rear of the church, and away from the church some distance upon the hill was a grave-yard in an oak grove.

Ans. For what purpose was that grave-yard used?

(Objected to.)

Ans. For the officers and servants of the Hudson Bay Co. and their families.

Qies. 16. Was there any time that you recollect between 1849, when you came here, and March, 1853, when you went away, when there was no Catholic priests here; and, if so, what time?

(Objected to.)

Ans. I can't say what time, but there was a time when there was no services in the church for a considerable length of time.

Ques. 17. Who was the first priest who came here after Father Delavoux, if you recollect?

(Objected to.)

Ans. I can't say.

781 Ques. 18. What opportunities did you have of knowing where the Catholic priest who was here in 1849 boarded, slept, and lodged?

(Objected to.)

Ans. Constant intercourse with the Hudson Bay Co. and social visits to Father Delavoux.

Ques. 19. Where did he board and lodge?

(Objected to.)

Ans. Within the enclosure of the Hudson Bay fort; his meals were sent to him from the kitchen of the Hudson Bay Co.; I have seen it myself time and again—seen them carried—and I don't remember ever to have seen — at the table of the officers of the company, where I was a frequent guest. He lived a short distance from the house of the chief factor, inside the stockade, in a house—such a house as the houses the officers of the company occupied.

Ques. 20. Have you any knowledge as to who built the church and wing you speak of, and how was that knowledge obtained? State fully.

(Objected to.)

Ans. The church was built by the Hudson Bay Co.; I was told so by the chief factor, Mr. Ogden; I stood by while the clerk of the Hudson Bay Co. was looking over the expense account of the Hudson Bay Co. to see the cost of the church. The company did their business in pounds and I think it was 100 pounds sterling. It was a very simple affair.

Ques. 21. When was the first time you ever learned that the Catholic church or the priests thereof or the St. James mission claimed the military reservation and a part of the town site of Vancouver as their property?

(Objected to.)

782 Ans. I never knew of their claiming the reservation until the lawsuits in the Land Department a few years ago; that is the first I ever knew of their claiming the reservation.

Cross-examination:

Ques. 22. When you speak of the lawsuit before the Land Department do you refer to an investigation that was ordered by the Land Department of the United States Government and had before the surveyor general of Washington Territory as to the merit of the respective claims of the military and Catholic mission, the people of Vancouver, and Short's heirs as to the ownership of the land here at Vancouver?

Ans. I don't know whether it was that suit or some other.

Ques. 23. About what time was that lawsuit you speak of?

Ans. That I don't remember.

Ques. 24. Have not you yourself heretofore testified as a witness in some controversy or dispute between the United States military department and the Catholic church as to the right of this land?

Ans. Not that I remember; I would not say that I had not.

Ques. 25. You say you did not remain in the Government service all the time from the time you arrived here, in 1849, until March, 1853?

Ans. No; I established a stock ranch in the Walla Walla valley in the fall of 1852, but came back here to Vancouver and wintered in my old quarters with Capt. Ingalls' successor. Capt. Ingalls was still here.

Ques. 26. Were the wives of these Canadian employees of the Hudson Bay Co. Indian women?

Ans. Yes.

783 Ques. 27. In what numbers were wild Indians accustomed to congregate here to trade with the Hudson Bay Co. and for other purposes between 1849 and 1853?

Ans. During the winter they congregated in large numbers on the bank of the river here and on the opposite side of the river farther east.

Ques. 28. Was the Catholic priest or priests here during that time accustomed to preach—to catechize or teach those wild Indians in their lodges or villages here?

Ans. Not to my knowledge.

Ques. 29. Did you never see or hear of any of the priests so teaching those Indians here at that time?

Ans. No; I did not; never heard of it.

Ques. 30. Of what religious faith are you, if any?

Ans. I belong to the Protestant Episcopal church.

Ques. 31. Of what religious faith, if any, was Chief Factor Peter Skeen Ogden?

Ans. He was of the Church of England, and read services in the fort.

Ques. 32. You say that that wing or small house east of the church adjoining was not finished when you came here. What did it lack of being finished?

Ques. Ans. Yes; it was enclosed but had no inside partitions; rough floor and walls. My impression is there were no windows—that they were furnished by the Hudson Bay Co. and put in afterwards, but I would not be positive about that.

Ques. 33. Do you know whether it had been previously occupied or used for any purpose?

784 Ans. I think not. It had no appearance of it. It appeared to have been built subsequent to the church, but I cannot say how long.

Ques. 34. Mr. Ogden was a big man in this country at that time and did about as he pleased with the church people and everybody else, did he not?

Ans. Yes; until he ran against Yankee Doodle he was a kind of just man.

Ques. 25. How much rent did you pay for that wing of the church?

Ans. I don't remember.

Ques. 26. Were the two-story buildings you speak of and which you say were rented by the Hudson Bay Co. for school-houses finished when you reached here in 1849?

Ans. They were not.

Ques. 37. Did you know the condition of that church building and the wing to it at the time that the valuation of those buildings and other Hudson Bay Company property was made by the board of officers appointed to value the same in the adjustment between the United States and the Hudson Bay Company?

Ans. I did not. I was absent from March, 1853, to the fall of 1855.

Ques. 38. Was there any addition or improvement to that church building or wing such as would increase its value from what you have already described it when you left here in 1853 and when you returned in 1855, so far as you can remember?

785 Ans. The wing that I first spoke of had been extended east; I don't know how far. That was after I left in 1853 and before I got back in 1855.

Ques. 39. How long after you got here before Delavoux left, and was he here when you rented that building for officers' quarters?

Ans. I cannot say whether he was here that day or not. I know

he was living here at that time. This was his residence. He was here after that.

Ques. 40. About how long did the military occupy that wing of the church, if you know?

Ans. Certainly during the first winter of the year—that of 1849 and 1850. The rifle regiment did not get here until the fall of 1849. The rifle regiment actually wintered that winter in Oregon City for want of accom-odations here. The officers who wintered here in that wing of the old church building was an officer of the rifle regiment. I might be mistaken about his wintering in that wing the winter of 1849 and 1850, but if I am he came down here early in the spring of 1850. The officer who wintered there or who was there had his wife with him.

Ques. 41. Why did that officer of the rifle regiment establish his quarters so far from his command? Was it because he could not procure quarters at Ogden City?

Ans. I think I told you, or intended to tell you, that the rifle regiment moved down here early in the spring of 1850. I don't know whether he established his quarters here before they came or not. His name was Denman. I think he was a second lieutenant.

786 Ques. 42. Was there any other unoccupied building here at that time which you might have secured for Lieut. Denman and his family?

Ans. There were two other sets of quarters rented that were made vacant by the officers of the Hudson Bay Co. to accom-odate the officers who had families. They were outside of the stockade. I don't remember whether there were any others or not.

Ques. 43. Why were the officers having families quartered in buildings as far as possible?

Ans. Common courtesy to the ladies, and to protect them from the weather and make them more comfortable.

Ques. 44. Do you know the purpose for which that wing to the church was erected?

Ans. I do not.

Ques. 45. Did Mr. Ogden say nothing to you on that subject when you rented it from him?

Ans. Nothing.

Ques. 46. You say that Ogden said when you rented that room or wing that you could have the church also, if you desired it. Is that correct?

Ans. Yes, sir; I said so.

Ques. 47. Then you knew and he knew at that time that the church building was being used every Sunday as a place of worship by the Catholic priests and their congregations, did you not?

Ans. He couldn't help knowing it; he knew everything that was going on here at that time. There was a small cross on the
787 building, on the gable end, and a triangle of three sticks and bell suspended between them off a little distance from the church.

myself. 48. Did the military use or occupy the church building for any purpose?

Ans. Not at all.

Ques. 49. Were you in their church building at all during the first year you staid here?

Ans. Yes. I looked in occasionally when they were going through and conducting their services.

Ques. 50. Do you remember if you looked into the church building at the time you rented the wing or not?

Ans. We did not.

Ques. 51. When you were first inside that church building after you arrived here what furniture, if any, was inside of it?

Ans. Rough benches and altar. I don't remember seeing any fixtures. I don't remember of being in any Catholic church where they were not, except once up here at Walla Walla.

Ques. 52. What other pri-sts, if any, were here besides Delavoux between 1849 and 1853?

Ans. I think that Bishop Blanchet and Father Bronilett were here in 1853. I don't remember them prior to that time.

Ques. 53. Between 1849 and 1853 did you see or meet with Delavoux, Blanchet, or Bronilett at any other place than here at Vancouver? If so, where?

Ans. I can't be positive about that. I did not meet Blanchet until I met him here. Father Bronilett, I think, I met at Oregon City. I have seen Delavoux when I traveled with him
788 from here to Oregon City, and saw him at Oregon City during that time.

Ques. 54. When did you first hear of the passage of the act of Congress of August 14th, 1848, granting lands to mission stations in Oregon?

Ans. My attention was called to it in 1853 and 1854, and that was the first I heard of it.

Ques. 55. How often did you have mail communications with the Atlantic States when you first came here and up to 1853?

Ans. When we first came here the mail was very irregular, not more frequently than once a month. Letters coming to San Francisco for Oregon were bundled and sent here by any sailing vessel that came.

Redirect:

Ques. 56. When did you first hear of the act of Congress organizing the Territory of Oregon?

Ans. Heard of it, I think, in 1848. I heard of it before I left Washington, in November, 1848.

Ques. 57. Was there any newspapers published in this country when you came here in 1849?

Ans. I think there was a paper published at Oregon City in 1849. I don't remember the name. It was a very small affair.

Ques. 58. When did the Territorial officers for the Territory of Oregon first reach here, as far as your knowledge goes?

(Objected to.) was

Ans. General Lane reached here in 1848.

Ques. 59. Was the Territorial government of Oregon in operation in 1849, 1850, 1851, and 1852 to the spring of 1853,
789 when you left here?

(Objected to.)

Ans. There was a governor and secretary of state, and the legislature had been in session. I know the legislature was in session in 1850 and 1851.

Ques. 60. Was it generally known among the people in the country in 1850, 1851, and 1852 and up to the time you left in 1853 that Congress had organized Oregon Territory?

Ans. Why, yes.

Recross:

Ques. 61. Was it generally known among the people here at that time and prior to 1853 that a grant of lands had been made to missionary stations in Oregon?

Ans. I can't say, really. I never heard of it until 1853 or 1854, when I wanted to buy the Whitman mission.

Ques. 62. Did you ever see prior to 1853 that newspaper which you say was published at Oregon City?

Ans. I don't remember ever to have seen a copy of it.

Ques. 63. In your opinion, would it have been of any avail if Father Delavoux had objected or remonstrated to the renting of the church by Mr. Ogden?

Ans. No; I don't think it would.

Redirect:

Ques. 64. Why would it not have been of any avail as you have answered in the last question?

Ans. Well, I don't think the military looked upon Father Delavoux as having any control of it. They looked upon the Hudson Bay Company as controlling it.

Ques. 65. Why did they look upon the Hudson Bay Co. as controlling it?

790 Ans. It was located on their possessory rights.

LLOYD BROOKE.

Defendants next introduce as a witness on their behalf JOHN F. SMITH, who, being first duly sworn, testifies as follows:

Ques. 1. State your name, age, place of residence, and occupation.

Ans. My name is John F. Smith. I am 61 years old. I reside at Vancouver, Washington Territory, and by occupation a justice of the peace.

Ques. 2. When did you first come to Vancouver, Washington Territory, to live with your family, and whereabouts did you reside, and about how large was your family?

Ans. I came here in November, 1853, to reside permanently with

my family. My family consisted of myself, wife, and one child. I resided from that time on for about two years in a house directly west of the Catholic church, in the military reservation. The house I rented from the Hudson Bay Company.

Ques. 3. About how far was that house west of the Catholic church?

Ans. I should say between 35 and 40 feet; that is as near as I can recollect.

Ques. 4. Who was living in the house before you went to live in it, if you know?

Ans. Mayor Eckerson, of the U. S. Army; his family and my family lived together two or three weeks and until his quarters were ready in the garrison.

791 Ques. 5. Describe the church building and its surroundings at the time you moved into this house.

(Objected to.)

Ans. The church building was a square feame building, about 50 feet long by 25 feet wide. There was an addition, a one-story addition, with shed roof, attached to the north side of the main building, in which the Catholic priest, Father Bronilett, lived. There was a partition fence between my premises and the church. They had about 30 or 35 feet of ground between the church building and the east line of my fence, and that fence ran back square about 40 feet beyond, north of the church building, and then from there a fence ran east about 60 feet, and thence ran south and connected with the east line of the church building. Inside that enclosure behind the church they had a couple of little houses about ten feet by ten feet; one of those houses they used for the bell-ringer, the man of all work around there, and the other as a store-room. Then in one corner of that enclosure they had a sort of scaffold with a bell hanging from it, which they used to ring. I had a stable there that Major Eckerson put up and turned over to me; it was behind and a little west of the house I liv-d in. He had put up the stable, and he sold it to me with the two lots on which the house and stable were, and he told me he had bought them of the county of Clarke at some county-seat sale. There was a whole line of dwelling-houses on the other side of the street and running down to the river, about

792 50 of them, a double line of houses, occupied by the Hudson Bay Co.'s employees. There was also a house east of mine and south, directly in front of the lower corner of the priest's garden, and I used it for a hay shed. The south line of my fence was directly in a line with the priest's fence and the south side of the church, and just outside of this fence was the house I used for a hay shed. The church fronted to the south.

Ques. 6. What was immediately east and north of your premises?

(Objected to.)

Ans. I had a garden running back north about 120 feet from the south line of my fence, then west about 60 feet, then south back again to my front fence about 120 feet. West of my garden and premises was a large garden that was called commanding officer's garden;

the soldiers planted and worked it. Col. Bonneville was commanding officer of the post at that time. He was commanding officer during the time I was there.

Ques. 7. Where did the priests board when you lived there?

(Objected to.)

Ans. In that shed part attached to the church. It was divided into two rooms; one was his cook-room and the other a bed and sitting room.

Ques. 8. Were there any transient priests here, and with whom did they board?

(Objected to.)

Ans. Very frequently priests came to Vancouver, traveling back and forth from the sound to the east of the mountains. Father Bronillet always had me to board them. I kept boarding-house there at that time.

Ques. 9. Were there any post sutler's quarters; and, if so,
793 where were they with reference to the church?

(Objected to.)

Ans. Yes; they had a store and an enclosure, a high stockade around it. It was north of the church and a little to the east, but was afterwards enclosed by the priests. It was enclosed after I left here several years. This fence was torn down recently. I understand Col. Anderson had it torn down.

Ques. 10. What time did you cease to live in that house west of the church?

(Objected to.)

Ans. In June, 1855.

Ques. 11. Who was the priest here at that time?

(Objected to.)

Ans. Father Bronillet.

Ques. 12. State any conversation you had with him about the time you left about your garden and the commanding officer's garden, if you had any such conversation.

(Objected to.)

Ans. Shortly before I left there Col. Boneville was removed from here. Father Bronillet came to see me and told me Col. Bonneville had given him his garden, and knowing that I was about to move from there he asked me if I wouldn't let him have my garden, so he could connect the two; my garden was between the two, and he wanted to make connection. I told him I didn't care, provided he paid me for my rail fence which I had put there as a protection against his devilish goats. Bronillet was a nice man; our relations were extremely friendly, very much so. I let him have the rails, and he paid me $4.00 for them. Then shortly after I had removed I noticed he had that fence taken out and the whole premises under one enclosure.

794 Counsel for defendants here calls the witness'es attention to a map in defendants' documentary evidence, Exhibit "N," called "Map of the Government reserve at Fort Vancouver, W. T., from a survey made by Lieut. Col. B. L. E. Bonneville, 4th Infantry, February, 1854," and asks the witness to—

Ques. 13. Point out on the map the location of the Catholic church.

(Objected to.)

Ans. The witness here points to the map shown, at a point thereon where a small enclosure is situated, about 1¾ inches northwest of the northwest corner of a place on the map marked "H. B. Compan*ie*'s fort," near where a road is marked and where several roads diverge, and says that the large black square in the enclosure on the north side of the road represents the point where the church building stood and where it now stands, and says: The house that I lived in is represented on that plat by a little square block just west of the church, and my barn is represented by the little square block just west of my house, but I think it ought to be a little further north. The other house I spoke of of using as a stable and which burnt down in the winter of 1853 was situated between my house and the church. The commanding officer's gerdens was situated west of my barn, and the part of the enclosure lying north of the north line of the garden was in brush. There was no fence around the brush part in 1853. The first time I walked up there after I moved away I noticed that all the small enclosures I
795 have described and the brush was enclosed with a fence. This was done after 1855, and that is the fence I understand Col. Anderson had torn down last winter.

Ques. 14. What about schools kept by the Catholic priests here prior to 1855 and after you came here?

(Objected to.)

Ans. There was no school kept there by the Catholic church. There was a school in the Hudson Bay fort. I mean to say from 1853, when I came here, up to June 10th, 1855, no school- were kept here by Catholic priests.

Ques. 15. Did you see or notice the people who attended religious services in the church you speak of from 1853 until 1855?

(Objected to.)

Ans. I seen them every day going to and returning from mass. They werr Canadian Hudson Bay employees, some French settlers who had formerly been in the employ of the company, farmers down on the bottom, their women and children, and occasionally a Catholic soldier—very occasionally, too.

Ques. 16. When did you first hear of the Catholic church or the St. James mission claiming land about that church under the act of Congress of August 14th, 1848?

(Objected to.)

Ans. I first heard of it in February, 1854—next day after Lieut. Col. Bonneville made a survey of the reservation to which you have called my attention. The next day I saw a notice stuck up on the outside of the military reservation, near the west line of the reservation, in that part of the town of Vancouver called the Gore, which is patented to Vancouver, in which notice Bishop Blanchet
796 claimed that piece of land situated between the west line of the military reservation and the east line of the Short donation land claim. He claimed it as a mission claim, I guess, and that same spring had that piece of land fenced up with a fence, which ran along through the center of where Main street is now, and which is the east line of the Short donation land claim. I spoke to Mr. Bronillet about this notice and claim, and told him I never heard of any such thing before. He said they couldn't put in a claim prior to the cutting down of the reservation. Previous to that the reservation was 4 miles square.

JOHN F. SMITH.

Counsel for plaintiff here states that he declines to cross-examine this witness because he has testified to matters occurring more than 5 years after the date of the land in controversy to the Catholic mission at Vancouver and more than 6 months after the date when Bishop Blanchet filed his notification for this claim before Surveyor General John B. Preston, and counsel for plaintiff now moves that the whole of the testimony taken by defendants' counsel up to this time be expunged as wholly immaterial and incompetent and irrelevant to the only legitimate fact in this case as made by the pleadings, which is as to whether the constant findings of the Land Department that there was as matter of fact a mission station at Vancouver from 1838 up until 14th day of August, 1848, was
797 procured by false or fraudulent testimony.

W. BYRON DANIELS, *Referee.*

The further taking of testimony in this cause at this time is now, by consent of both parties to this suit, suspended.

W. BYRON DANIELS, *Referee.*

FOURTEENTH DAY.

Now, on this 2nd day of April, 1888, all parties to this suit, by counsel, appearing before me, at my office, at Vancouver, Clarke county, W. T., the taking of testimony herein is by consent resumed.

Defendants introduce as a witness on their behalf PETER W. CRAWFORD, who, being by me first duly sworn, testifies as follows:

Ques. 1. State your name, age, place of residence, and occupation.

Ans. My name is Peter W. Crawford; I am over 60 years old; I reside at Kelso, Cowlitz county, Washington Territory, and am surveyor by occupation.

Ques. 2. Are you acquainted with that tract of land on which is situated the military reservation near the city of Vancouver, Clarke

county, Washington Territory, and that tract on which the city of Vancouver now stands?

Ans. I am well acquainted with both tracts.

Ques. 3. When did you first see this land?

Ans. On the 26th of November, 1847.

Ques. 4. What happened on that day?

Ans. I had just come to the country and came over to the Hudson Bay Companie's store to buy goods. The Hudson Bay
798 Companie's store was the only place to trade then.

Ques. 5. State where you have lived since that time.

Ans. Principally in Cowlitz county.

Ques. 6. Where did you live up to the 14th day of A-gust, 1848?

Ans. I laid sick back of Vancouver, within two miles, until the 3rd day of March, 1848; then I boarded with James Logie, a Hudson Bay Co.'s servant, on Sanvies island up to the year 1850. I made it my partial home up to that time.

Qnes. 7. What was you doing while you were living there?

Ans. Surveying donation claims and doing other surveying. I surveyed the town site of Vancouver—that part which is in the Short claim—in May and June, 1848, for one Henry Williamson. We ran the donation lines first and then laid out the town.

Ques. 8. Do you know where the lines are between the U. S. military reservation and the town of Vancouver?

Ans. I do. I know all about them.

Ques. 9. Who surveyed the Gore, between the Short claim and the U. S. military reservation?

Ans. The lower part of the Gore was surveyed by a man names George W. Porter, superintended by Dr. Lansdale, auditor of Clarke connty, and was laid out for the purpose of a county-seat. This was in the year 1850. The Short claim was laid out in May and June, 1848, as far as now is 8th street, in the city of Vancouver. It was surveyed and laid out by Henry Williamson, the contested claimant of Amos M. Short. The reason I know this was because
799 Short ordered us off and I was doing the surveying. We did not leave the work, but kept on surveying.

Ques. 10. What part of what is now known as the Short claim was it that you laid out the town on?

Ans. On the Columbia river as far as Main street, which was the eastern boundary of the Henry Williamson claim, and up to 8th street and west of this Main street of Vancouver. We called the town Vancouver City.

Ques. 11. Was any one claimong at that time the land in the Gore between what is the military reservation and what is now the Short claim?

Objected to as incompetent and immaterial.

Ans. We understood it to be a part of the Hudson Bay Co.'s possessions, James Douglas, claimant, because the Hudson Bay Co. employees' houses stood upon it—then called Kanaka Town, which was immediately east of Main street.

Ques. 12. State, as near as you can recollect, what tract of land

was occupied by the Hudson Bay Co. in May and June, 1848, with reference to what you call the Short claim.

(Objected to as incompetent and immaterial.)

Ans. Not very far — the southeast corner of the Short claim or the Henry Williamson claim, up the Columbia, stood the Hudson Bay fish-house, where they stored salmon—near where the Government wharf is now located. North of that about 100 yeard- commenced Kanaka Town, where the employees of the Hudson Bay — had houses—such as the carpenter, the cooper, the blacksmith, the shephard, and Pilot Johnson and others, together with the
800 Kanakas, half-breeds, Canadian Frenchmen. To the east of where the Catholic church stood and now stands, about two or three hundred yards, stood the main Hudson Bay fort, quadrangular, about 2 acres or more, within an enclosure of pickets, where was the house of Governor Douglas, who was chief factor; James Graham, chief clerk, and others of the superior officers of the Hudson Bay, where they transacted business, selling goods to whites and Indians. The Hudson Bay Companie's farm was on Mill plain, six miles away up the river. On the Columbia river, about 3 miles up, was a saw and grist mill belonging to that company. North of the picketed fort adjoining was the garden and orchard of the company, where James Scarborough, gardner, lived and cultivated for near 30 years. South of the fort, a short distance, was one or two dwelling-houses, one occupied by a family named Buell, assistant blacksmith for the company. I know there was no other building near there. There was a grave-yard where the whites, the Kanakas, and everybody else buried, north of the church, a little over 300 yards. The church building was situated about a little north of west of the Hudson Bay fort, about 300 yards. It still stands there where it did then. I was well acquainted with it then, because it was the only church.

Ques. 13. What name, if any, was given to this church from the time you came here up till the 14th day of August, 1848?

Ans. It was generally known as the Hudson Bay Catholic church. There was another church we used to go to inside the fort
801 gates in Governor Douglas' house, he conducting there Episcopal services.

Ques. 14. What schools, if any, were here up till August 14th, 1848, and where were they situated?

Ans. One Richard Covington kept school within the gates of the fort for the purpose of educating the Hudson Bay children. He was a Hudson Bay servant, an Englishman who came out for the company.

Ques. 15. How many persons were living on the tract of land immediately surrounding the Hudson Bay Co.'s fort, that you speak of, on the 14th day of August, 1848?

(Objected to as immaterial.)

—. Two carpenters and families, two coopers, two blacksmiths, three clerks in the store, school teacher, Doctor Barclay, and his

assistant, and a lot of Kanakas and Canadian Frenchmen, who lived in at least 20 houses in Kanaka town. The Frenchmen were generally married to Indian women, and the Kanakas lived with Kanaka women. They had regular Hudson Bay marriage service. They had regular rules to make them live with their own wives. The Hudson Bay Company was supreme ruler of the land all around here.

Ques. 16. Who was in charge of the Hudson Bay Company from the time you came here *up* to August 14th, 1848?

Ans. James Douglas. But Peter Skeen Ogden was occasionally here, and seemed to be superior to Douglas.

Ques. 17. What control, authority, and dominion did the Hudson Bay officers exercise here up till the 14th day of Aug., 1848?

802 (Objected to as immaterial.)

Ans. They seemed to have complete control of everything, because they arrested and put in confinement any person that would bring liquor on their grounds and sell to any person in their employment. I knew of two such cases.

Ques. 18. What about their allowing people to occupy land here?

Ans. They would not allow it. They put Amos Short and his family on a bateau and sent him over to a place on the Willamette, Linton. They seemed to be in favor of Henry Williamson, and never molested him, although he took up for his own use the Armitinger claim (a Hudson Bay man who went to the islands), which is now the Amos Short claim, heretofore referred to.

Ques. 19. Why did they put Short off?

(Objected to as immaterial.)

Ans. Because he was a trasspassor on the Armintinger claim, who was a Hudson Bay man. Short had brought his family here and squatted on this claim, which the company claimed as belonging to them.

Ques. 20. Who claimed, in 1848, the land (in May & June, 1848) up to August 14th, 1848, now known as the Short claim, the Vancouver town site, and the military reservation?

(Objected to as immaterial.)

Ans. Henry Williamson claimed the Short claim west of Main St. James Douglas claimed east of Main St. up to the Dr. Barclay claim, which is about a mile. Dr. Barclay claimed that up the river about a mile; a brother-in-law of Barclay, Alex. Pam-
803 brum, claimed above that. Each one claimed about 640 acres—about one mile square.

Ques. 21. How were these claims bounded on the south?

(Objected to as immaterial.)

Ans. By the Columbia river.

Ques. 22. Did you ever attend the Catholic church on or before August 14th, 1848?

Ans. I did frequently and afterwards.

Ques. 23. Who made up the congregation generally?

Ans. It was very promiscuous—whites, Kanakas, Canadians—but the chief congregation were Canadian Frenchmen and half-breeds. Those that carried music were half-breeds from Hudson bay.

Ques. 24. Who were these Kanakas?

Ans. They were from the Sandwich islands, and were Hudson bay servants.

Ques. 25. What were the Canadian Frenchmen and Kanakas principally engaged in doing?

Ans. What might be called the understrappers for the company, hauling wood, water, and other drudgery, packing pelts and moving pelts and moving goods from the ships to the stores, as at least one ship came from London every year bringing goods and supplies and carrying away furs and pelts.

Ques. 26. What business was the Hudson Bay Company carrying on here, and how extensive was the business?

Ans. This was the place for the supplies of various outstanding posts; was the place where the furs from those posts were shipped. At least one ship-load was carried from this post each year.
804 They had a vessel plying up and down the Columbia, and to the Falls of the Willamette at Oregon City, carrying flour from that place; also carrying flour and lumber from their mill up the Columbia. They had a ship which went to the Sandwich islands—I mean that their ships touched at the Sandwich islands when on the way to Great Britain. They also traded with the Russians at what is now Alaska.

Ques. 27. When was your first recollection of the mission of St. James or the Catholic church claiming land where the military reservation now is?

(Objected to as immaterial.)

Ans. I think it was in 1864.

Ques. 28. Up to August 14th, 1848, what claim, if any, was made by the Catholic church or the Catholic mission to any of the lands in the Short claim, the Vancouver town site, or in the military reservation?

(Objected to as immaterial.)

Ans. Not any that I ever heard of.

Ques. 29. Would you have been likely to have heard of it up to that time if any such claim had been made?

(Objected to as immaterial.)

Ans. Of course we would, because we were always notified when we were trespassing, and we were surveying about two months here.

Ques. 30. Where do you mean you were surveying about two months?

Ans. On the Henry Williamson claim, west of Main street and north of the Columbia, and I surveyed claims all round here that summer of 1848.

805 Ques. 31. How well were you acquainted with the land claimants about here in the summer of 1848?

Ans. I was well acquainted with all the land claimants about, down as far as the mouth of the Willamette; out as far as Fourth plain and up the river as far as Crate mill. This was a strip of country about six miles down the Columbia from Vancouver, four miles up the river from Vancouver, and about six or seven miles back from Vancouver.

Ques. 32. Did you ever hear any one claim for the Catholic church or the St. James mission any of the lands within that strip of country up to August 14th, 1848?

(Objected to as immaterial.)

Ans. No; never dreamt of such a thing. No person ever made such a claim.

Ques. 33. Were there any Catholic priests here when you were surveying here in 1848 and up to August 14th, 1848?

Ans. There was not. I think they came here from Bishop Blanchet, on French prairie, up the Willamette, because I saw them traveling from here to Oregon City in canoes.

Ques. 34. What houses or residence did the Catholic priest have here up to August 14th, 1848?

Ans. None; unless they lived in the church. I never saw anybody living in the church.

Ques. 35. How frequently were you in the Catholic church up to August 14th, 1848?

Ans. Henry Williamson and myself attended church nearly every Sunday when there was church there, and after that date, as we had nowhere else to go.

806 Ques. 36. How frequently were services held in that church up to August 14th, 1848, by the priests?

Ans. I don't remember, but not every Sunday, because some days we went to Dougal's Episcopal service.

Ques. 37. Where did the priests generally take their meals?

Ans. That I can't tell, but probably with Joseph Petrain, who was the baker of the Hudson Bay Company, and other Canadian French. Petrain was always a good Catholic.

Ques. 38. Who laid claim to this grave-yard you speak of up to August 14th, 1848?

Ans. No person. It was on Dougal's claim.

Qies. 39. Was it known or talked of or reputed to be a Catholic grave-yard?

Ans. It was not.

Ques. 40. Of what religion were the people who were buried in it?

Ans. I never saw any one but a Protestant buried there, but I think all who died about here were buried there. Of course, the Indians did not bury there.

Ques. 41. What knowledge have you of Protestant missionaries preaching here up to August 14th, 1848, other than those you have spoken of?

(Objected to as immaterial.)

Ans. I heard Rev. William Roberts, Methodist minister, preach a sermon in Buell's house, just outside the gate of the fort.

Ques. 42. What religious service was carried on here, as far as you saw, from the time you came here up till August 14th, 1848, among the wild Indians?

Ans. None at all, unless they went to the Catholic church,
807 and I don't know as I ever saw them at church.

Ques. 43. If the wild Indians had been in the habit of frequenting the Catholic church would you have noticed it?

Ans. I would, decidedly, because we were going through the Cayuse war then.

Ques. 44. What, if you know, did the wild Indians come here to do up till August 14th, 1848?

Ans. To trade furs for goods for the Hudson Bay Company.

Ques. 45. Where did they generally stay or came when they came here?

Ans. They camped along near the beach of the Columbia river in very rude huts made of mats of their own manufacture and temporary in their nature. They never stayed long. They Hudson Bay Co. would not allow them. This Co. had complete control of the premises, and never allowed many to stay around at one time.

Ques. 46. Do you recollect the name of the priests who stayed here up till August 14th, 1848?

Ans. Only Bishop Blanchet. The others had strange Canadian names, which I never memorized.

Ques. 47. What connection had this man Williamson with the Hudson Bay Company?

Ans. I don't think he had any; but he came here from Indiana and fell into their good graces.

Cross-examination:

Ques. 48. Where were you born?

Ans. I was born in Scotland, but I came across the plains from Indiana in 1847.

Ques. 49. How old were you when you came to America?
808 Ans. I was 16 or 17 years old.

Ques. 50. How much are you over 60 years old now?

Ans. I am about 5 years over 60.

Ques. 51. How old were you when you landed in Oregon?

Ans. I was over 20; I will count back and tell you. I think I was in Chicago on my 20th birthday.

Ques. 52. How long did you remain in the States after coming to America before coming to Oregon?

Ans. I think I spent three summers and four winters before starting to Oregon.

Ques. 53. When did you say you were first at Vancouver?

Ans. I came to Vancouver the 26th day of November, 1847.

Ques. 54. How long had you been in Oregon before you came to Vancouver?

Ans. I had just come down the Columbia river—just got in.

Ques. 55. How long did you remain at Vancouver at that time?

Ans. Just one day at that time.

Ques. 56. Then where did you go to?

Ans. I went back to help drive cattle down the river.

Ques. 57. When were you next in Vancouver?

Ans. Between the 6th and 12th of December, 1847, and remained here back of town two miles two or three days.

Ques. 58. When were you next in Vancouver?

Ans. About the 18th or 20th of December.

Ques. 59. When did you first come to reside in Vancouver?

Ans. I resided two miles back of Vancouver. I have made it my partial home frequently from time to time; this time 7 years;
809 I mean at the present time 7 years. A good many years ago I lived here one year. When I came here I was a single man, and I was all over the country for years.

Ques. 60. When did you first go to live on Sanvies island?

Ans. About March 1st, 1848; only a temporary residence.

Ques. 61. How far was that from Vancouver?

Ans. About 8 miles.

Ques. 62. Were you in Vancouver the majority of Sundays between that time and the 14th day of August, 1848?

Ans. I was.

Ques. 63. Will you swear that there was not a Catholic priest living at Vancouver all the time from the time you came to Oregon in 1847 up to the 14th day of August, 1848?

Ans. If there was he kept himself very close.

Ques. 64. Were you ever in the Catholic church of which you have spoken here at Vancouver between November 26th, 1847, and August 14th, 1848, when religious services were being held there and there was no Catholic priest present?

Ans. I don't think I was. I couldn't tell the Catholic priests from what they call curates. Bishop Blanchet, a Catholic priest.

Ques. 65. Who were the men you call curates? What were their names?

Ans. That may not be the right name; that was the Episcopal name for the officiating priest.

Ques. 66. Was there not an officiating priest here all the time from November, 1847, to August, 1848?

Ans. If there was he did not associate with the Protestant whites.

Ques. 67. Were you in the Catholic church a majority of the
810 Sundays between November, 1847, and August 14th, 1848?

Ans. I was in May and June and in April; I was sick in January and February.

Ques. 68. Was there not an officiating priest present every time you attended church there and services were held there of any sort?

Ans. Indeed I cannot tell only from the gowns they wear.

Ques. 69. Was there a man there with a gown on every time service was held?

Ans. Yes; and more than one.

Ques. 70. Did you know a priest named Demers during that time?

Ans. I think I have heard of the name, but I did not try to memorize so many strange names.

Ques. 71. You knew nearly everybody living here at Vancouver during that time, did you not?

Ans. Yes; I did among the white folks.

Ques. 72. Did you ever see any one of those white folks who were known by you as residing here acting as an officiating priest with a gown on in that church between 1847 and August the 14th, 1848?

Ans. Yes; I knew Bishop Blanchet. I didn't know him then, but became acquainted with him afterwards.

Ques. 73. How far was it from Vancouver to Bishop Blanchet's place, on French prairie?

Ans. By water about 46 miles and about 30 miles by land.

Ques. 74. Did a priest come from there here on the Sundays when you attended church here or before those Sundays a majority of the time in order to hold service in the church here?

811 Ans. I can't tell when they came nor when they went, but I have met them both ways, because we traveled by water in boats from here to Oregon City.

Ques. 75. Do you mean to say that you thus met them between November, 1847, and August 14th, 1848; and, if so, how often did you so meet them?

Ans. I did, but I can't tell how many times. I remember distinctly two times.

Ques. 76. What were the names of the priests you so met?

Ans. I do not know their names, only by their garb. I could tell they were officiating priests and by their conveyance in canoes by French Canadians.

Ques. 77. When and where did you study surveying?

Ans. I studied it at school and also practiced it in Michigan and in Chicago.

Ques. 78. By what authority was you surveying on the public lands of the United States during the time of which you have testified that you were engaged in surveying?

Ans. By the authority of the people taking donation land claims and governed by the laws of the people made at Oregon City prior to the United States taking hold of this country.

Ques. 79. When were the Government surveys extended over this country where Vancouver now is?

Ans. I din't recollect, but it was long after the meridian was run, and the meridian line was run in 1851.

Ques. 80. Did the Hudson Bay Co. claim to control the land contained in the Short's claim at the time you surveyed it?

812 Ans. They did, and long ways below it—further down the river.

Ques. 81. How long after 1848 did the Hudson's Bay claim control of this country?

Ans. They claimed a strip of land in 1854 from Vancouver to Lewis river, and a long ways above Vancouver; this was when Judge Lancaster was in Congress, in 1854.

Ques. 82. You surveyed a great many donation claims inside of

the land thus claimed by the Hudson Bay Co. between 1847 and 1854, did you not?

Ans. I did.

Ques. 83. Did the Hudson Bay Company object to any of those surveys?

Ans. They did sometimes, but most of these were Hudson Bay men, such as Jos. Petrain, Proulx, Raymond, and others I can't remember, principally French Canadians.

Ques. 84. Do you know where Wm. Ryan's donation land claim is?

Ans. I do, sir. I knew Wm. Ryan well.

Ques. 85. Where does that lie with relation to the military reservation?

Ans. It lies above it and adjoining to it on the east side, and runs down to the Columbia river and not quite a mile up the river and then back, so as to make 640 acres.

Ques. 86. When did Ryan settle there, if you know?

Ans. I can't say; I don't remember.

Ques. 87. Were there any cultivated lands claimed by the Hudson Bay Co. or any ground fenced in and claimed by the Co. on what is now the Wm. Ryan donation land claim between November, 1847, and August 14th, 1848?

813 Ans. I don't think there was, unless for corral purposes. A man by the name of Lee lived there in 1848, and he was there for ferrying people across the Columbia river.

Ques. 88. Did you ever give testimony before about this matter at any time?

Ans. I did not.

Ques. 89. Were you living anywhere near Vancouver in 1862?

Ans. I was living at the Cowlitz in 1862, but I was frequently in Vancouver.

Ques. 90. Did you ever survey a donation land claim on the Hudson Bay Co.'s claims of land for an American citizen who was not a Hudson Bay Company employee; and, if so, when?

Ans. I surveyed for Henry Williamson in 1848. I din't remember any other.

Ques. 91. You say the Cayuse war was going on between November, 1847, and August, 1848?

Ans. Yes, sir; it was, and for sometime thereafter.

Ques. 92. There were not a great many wild Indians coming to Vancouver or stopping here while that war went on, were there?

Ans. Yes; the Klickitats were a peac-able nation and very numerous, and their rendesvoux were very largely on Sandwich islands, and they came here to trade, and the Willamette Indians came here to trade, the Cowlitz Indians came here to trade, the Chinooks, at the mouth of the Columbia, came here to trade, and other small Columbia river tribes.

Ques. 93. How many wild Indians did you ever see camped here at Vancouver at any one time between Nov., 1847, and the middle of August, 1848?

814 Ans. Not very many at one time. I could not tell how many.

Ques. 94. The wives of the Canadian Frenchmen and of some of the other white men in the employ of the Hudson Bay Company were Indian squaws, were they not?

Ans. Yes; of the Canadian Frenchmen, but not of the Scotchmen. The white men of the Hudson Bay Co. married the half-breeds from Hodson Bay.

Ques. 95. Did you ever see any persons baptized in the Catholic church here at Vancouver between November, 1847, and the middle of August, 1848; and, if so, how many?

Ans. I think I have; but, not being a Catholic, did not take much stock in their services. They had holy water there.

Ques. 96. Were there any Catholic crosses in the grave-yard of which you have spoken prior to August the 14th, 1848?

Ans. I never saw any.

Ques. 97. You don't like the Catholic church much anyway?

Ans. I am no Catholic.

Ques. 98. Are you a Scotch Presbyterian?

Ans. I am an American Methodist.

Ques. 99. Did you know Father Bronillet, the Catholic priest here, when you came?

Ans. I became somewhat acquainted with him in his travels on the Cowlitz, but I don't know what year. I was well acquainted with Father Richards.

Ques. 100. Did the Short donation land claim join at any point what is now known as the military reservation?

815 Ans. They have a common corner at the foot of Main street, at the same Balm of Gilead tree established by Henry Williamson. In surveying the Williamson claim, I ran due north close up to the Kanaka town, which makes now the middle of Main street, in the present city of Vancouver. When Cap. Hatch surveyed for the military reservation he commenced at the same tree — ran upon a magnetic bearing which differed from the survey I made 22 degrees and 45 minutes, which made a gore between the military reservation and the Short claim.

Redirect:

Ques. 101. What is now on that gore?

Ans. The town of East Vancouver.

Ques. 102. What year was that laid out in, if you know?

Ans. It has been laid out from time to time. The first was in the year 1852 or 1853.

Ques. 103. Who took possession of what you call the Douglas claim, outside the gore you have described, and when and who now occupies that piece of land?

Ans. The United States, and it is the present military reservation. It was surveyed in 1850, the west line was run very early in 1850, but it was selected in the fall of 1849. The troops came here early in 1850.

Ques. 104. In whose claim was the gore originally situated?

Ans. We used to call it the James Douglas donation land claim—the governor of Ft. Vancouver—the Hudson Bay governor.

Ques. 105. Why did you call it his claim?

Ans. Because he was a Hudson Bay man, and it was fashionable to take claims.

PETER W. CRAWFORD.

816 The further taking of testimony is now by consent of parties adjourned until to-morrow morning at 8 o'clock a. m.

W. BYRON DANIELS, *Referee.*

FIFTEENTH DAY, *April 3rd*, 1888.

The same parties, by their attorneys, appeared to-day as of yesterday, pursuant to adjournment.

Defendants introduced as a witness in their behalf SARAH JANE ANDERSON, who, being by me first duly sworn, testified as follows:

Ques. 1. State your name, age, place of residence, and occupation.

Ans. My name is Sarah Jane Anderson; I am 50 years of age; I reside 3½ miles north of Vancouver, Washington Territory.

Ques. 2. When were you for the first time at the place where Vancouver, Washington Territory, is now situated?

Ans. In the spring of 1848.

Ques. 3. Who did you come here with?

Ans. I came here with my mother.

Ques. 4. Where did you live from the spring of 1848 until August 14th, 1848?

Ans. Right here in Vancouver.

Ques. 5. On what piece of land?

Ans. On the land known as the Short claim.

Ques. 6. How near to the main street of what is now the city of Vancouver?

Ans. I think about two or three hundred yards.

817 Ques. 7. What churches were here at Vancouver or within a mile of the place from the spring of 1848 to August 14th, 1848?

Ans. Episcopalean church, Catholic church.

Ques. 8. Where was the Episcopalian church?

Ans. Inside the Hudson Bay Company's fort.

Ques. 9. Where was the Catholic church?

Ans. Outside the fort; the same old church now standing in the military reservation.

Ques. 10. What schools were here from the spring of 1848 to August 14th, 1848?

Ans. They had a school inside the fort.

Ques. 11. What schools did the Catholic priests have here from the spring of 1848 until August 14th, 1848?

Ans. None that I know of.

Ques. 11½. Was there a grave-yard here from the spring of 1848 until August 14th, 1848?

Ans. Yes, sir; it belonged to the Hudson Bay Co. I suppose.

Ques. 12. Why do you think so?

(Objected to as immaterial and incompetent.)

Ans. Because that appeared to be the only burying-ground there was for everybody.

Ques. 13. Have you any relatives buried in there?

And. Yes, sir; my brother and uncle.

Ques. 14. When was your brother buried there?

Ans. In the year 1848.

Ques. 15. When was your uncle buried there?

Ans. I don't know exactly. I think in 1853 or 1854.

818 Ques. 16. Were you in the grave-yard in the spring or summer of 1848?

Ans. Yes, sir.

Ques. 17. What about Catholic crosses in the grave-yard at that time?

Ans. Some there.

Ques. 18. Where were these crosses?

Ans. Over the graves.

Ques. 19. How were the other greves marked?

Ans. By headboards without crosses.

Ques. 20. How were the graves with crosses and those without crosses situated; were they situated separately or scattered around together?

Ans. Scattered around together.

Ques. 21. What religious denomination was your family?

Ans. Belonged to none in particular.

Ques. 22. How old was your brother when buried?

Ans. About three or four years old.

Ques. 23. How long was that grave-yard used as a common burying-ground for every one, as far as you recollect?

Ans. As long as we lived here at that time—that was up to 1850.

Ques. 24. Where did you go in 1850?

Ans. Over on the Willamette.

Ques. 25. When did you come back here?

Ans. In the spring of 1855.

Ques. 26. How about the grave-yard then?

Ans. By that time the Government had taken possession and they had to have a different grave-yard.

Ques. 27. How old were you in the spring of 1848?

Ans. Past ten years.

819 Ques. 28. Did you go to school here?

Ans. Yes, sir.

Ques. 29. Where at?

Ans. Down here on the river bank in the years 1849 and 1850.

Ques. 30. Who taught that school?

Ans. Capt. Eckerson; he is now living, I think, on the sound; he was an officer in the army at that time, I think, or shortly after; he was not connected with the Catholic church.

Ques. 31. Any other school here at that time?

Ans. None, only that one inside the fort, that I knew of.

Ques. 32. Who taught the school inside the fort?

Ans. I don't know.

Ques. 33. Was it not a man by the name of Covington?

Ans. (Objected to as leading.)

Ans. Yes, sir.

Ques. 34. What children went to that school in the fort?

Ans. Those who lived inside the fort.

Ques. 35. What people were they?

Ans. Half-breeds—English, I suppose, as far as I know.

Cross-examination:

Ques. 37. Were you ever inside the school-room in the fort when school was in session?

Ans. No, sir.

Ques. 38. Then all you know about who taught it and who were the scholars you learned from hearsay, did you not?

Ans. Well, I saw them going out and in and saw the man they called the teacher and they said his hame was Covington.

Ques. 39. Why did you not recollect his name until Mr. White suggested it to you?

820 Ans. Because I am likely to forget names until somebody mentions them, it has been so long ago, and when anybody mentions names it brings things back to memory.

Ques. 40. What time in the spring of 1848 did you first come to Vancouver?

Ans. Along about the first of April.

Ques. 41. Where did you come from?

Ans. Oregon City.

Ques. 42. How long had you lived at Oregon City?

Ans. A couple of months; I couldn't say exactly.

Ques. 43. Where did you come from to Oregon City?

Ans. Portland.

Ques. 44. How long had you lived in Portland?

Ans. I don't know exactly; not very long, though.

Ques. 45. Where did you come from when you went to Portland?

Ans. Illinois.

Ques. 46. How long were you crossing the plains?

Ans. I can't tell how long; about six months. I came in with an ox team.

Ques. 47. What month of the year did you reach Portland?

Ans. Late in the fall; I can't tell what month. The rainy season had set in.

Ques. 38. Did you ever attend church inside the fort in 1848?

Ans. Yes, sir.

Ques. 49. In what sort of a building was the services held?

Ans. I think it was a log house; supposed to be the best inside the fort; Governor Ogden's residence, I think.

Ques. 50. Did you ever attend church in the Catholic church in 1848?

821 Ans. Yes, sir.

Ques. 51. How often?

Ans. Sometimes I would go there every other Sunday—just as the notion took me to go—whenever I felt like going.

Ques. 52. What were the names of the priests who conducted the services there at the times you went?

Ans. I don't know their names; I don't know whether it was Father Bronilette or not. I have been there when he preached.

Ques. 53. Did you hear Bishop Blanchet preach here in 1848?

Ans. I do not know; I don't remember.

Ques. 54. Where did the priests live, if you know, at the times when you were present?

Ans. I don't know.

Ques. 55. Was there always a priest present when you attended church in 1848?

Ans. Yes; he would come from somewhere. He would be there to preach. I don't know where he came from.

Ques. 56. How long after you first came to Vancouver before you attended church for the first time—at the Catholic church?

Ans. I don't know exactly; not very long, though, because there was no other place to go very much.

Ques. 57. Was not Episcopal service held inside the fort every Sunday?

Ans. Yes, sir; I guess there was. I was not there every Sunday

Ques. 58. What time in the year 1849 did the school of which you have spoken open on the river bank?

822 Ans. I don't know exactly what time; I couldn't tell, not expecting to ever be called upon to say. I think it was in the fall. He taught two schools here.

Redirect:

Ques. 59. Were there any Catholic priests living here at Vancouver from the spring of 1848 to August 14th, 1848, or in the fort or near the Hudson Bay fort?

Ans. Not that I know of. I don't know where they lived.

MRS. SARAH J. ANDERSON.

Defendants introduced as a witness in their behalf GEORGE W. FORCE, SR., who, being first duly sworn, testifies as follows:

Ques. 1. State your name, age, place of residence, and occupation.

Ans. My name is George W. Force; I am 69 years old; I reside in Oregon, on the Columbia slough, in Multnomah county, and I am by occupation a farmer.

Ques. 2. When did you first come to Oregon?

Ans. I came in 1845.

Ques. 3. When were you first at the place now known as Vancouver?

Ans. Well, I passed through Vancouver the fall of 1845, driving cattle.

Ques. 4. When were you next here?

Ans. I was here in the fore part of 1846 and camped here one night. I don't think I was here again until about June of 1846.

Ques. 5. When were you next here?

Ans. Well, I was off and on for once a week until about July 15th. I was making shingles and selling them to the Hudson Bay Company.

823 Ques. 6. Where were you making these shingles?

Ans. At a place on the Willamette called Linton, across from St. John's.

Ques. 7. When were you next at Vancouver.

Ans. In July, 1846, I went to work for Mr. John Switzler, and he had a job getting logs for the Hudson Bay Company up the Columbia river at the Hudson Bay mill, about six miles abov- here.

Ques. 8. How frequently were you here at Vancouver between July, 1846, and August the 14th, 1848?

Ans. I was here off and on, and after September, 1846, I was here sometimes three or four times a day. I lived just across the river from here, and Switzler kept a ferry and I used to do ferrying.

Ques. 9. How well were you acquainted with the people who resided in and about and around the Hudson Bay fort here from July, 1846, to August 14th, 1848?

Ans. Well, I knew many of them by sight. I knew what they were about. They were principally Kanakas and Canadian French and some Scotchmen.

Ques. 10. In whose employ were these people?

Ans. In the Hudson Bay. They were under its control.

Ques. 11. What were they doing?

Ans. They were farming—sometimes making hay, taking care of sheep, hogs, and farming.

Ques. 12. What stores or merchantile establishments were here from July, 1846, to August 14th, 1848?

(Objected to as immatarial.)

824 Ans. Dry goods, groceries, boots, shoes, hardware, inside the Hudson Bay fort, where they had the stockade around.

Ques. 13. Who was in charge of the Hudson Bay Co. here from July, 1846, to August 14th, 1848?

Ans. James Dougals. Ogden was here also, but don't know that he had charge of the fort. James Graham was head clerk.

Ques. 14. What schools were carried on here from July, 1846, to Auguse 14th, 1848?

Ans. I don't know of any one but what was called the Catholic school. I heard there was a school kept inside the fort. I don't know of any school except what was called the Catholic school, kept outside the fort, and I was never there, and was never at the Catholic school as early as that, and I only know what I heard. I heard there was a Catholic school and that is all I know about it.

Ques. 15. Do you know where the Catholic priests lived between July, 1846, and August 14th, 1848?

Ans. I do not know where he lived.

Ques. 16. Do you know where he preached?

Ans. He preached in the Catholic church.

Ques. 17. Did you give your testimony in this case before?

Ans. Sometimes I would go there every other Sunday—just as the notion took me to go—whenever I felt like going.

Ques. 52. What were the names of the priests who conducted the services there at the times you went?

Ans. I don't know their names; I don't know whether it was Father Bronilette or not. I have been there when he preached.

Ques. 53. Did you hear Bishop Blanchet preach here in 1848?

Ans. I do not know; I don't remember.

Ques. 54. Where did the priests live, if you know, at the times when you were present?

Ans. I don't know.

Ques. 55. Was there always a priest present when you attended church in 1848?

Ans. Yes; he would come from somewhere. He would be there to preach. I don't know where he came from.

Ques. 56. How long after you first came to Vancouver before you attended church for the first time—at the Catholic church?

Ans. I don't know exactly; not very long, though, because there was no other place to go very much.

Ques. 57. Was not Episcopal service held inside the fort every Sunday?

Ans. Yes, sir; I guess there was. I was not there every Sunday

Ques. 58. What time in the year 1849 did the school of which you have spoken open on the river bank?

Ans. I don't know exactly what time; I couldn't tell, not
822 expecting to ever be called upon to say. I think it was in the fall. He taught two schools here.

Redirect:

Ques. 59. Were there any Catholic priests living here at Vancouver from the spring of 1848 to August 14th, 1848, or in the fort or near the Hudson Bay fort?

Ans. Not that I know of. I don't know where they lived.

MRS. SARAH J. ANDERSON.

Defendants introduced as a witness in their behalf GEORGE W. FORCE, SR., who, being first duly sworn, testifies as follows:

Ques. 1. State your name, age, place of residence, and occupation.

Ans. My name is George W. Force; I am 69 years old; I reside in Oregon, on the Columbia slough, in Multnomah county, and I am by occupation a farmer.

Ques. 2. When did you first come to Oregon?

Ans. I came in 1845.

Ques. 3. When were you first at the place now known as Vancouver?

Ans. Well, I passed through Vancouver the fall of 1845, driving cattle.

Ques. 4. When were you next here?

Ans. I was here in the fore part of 1846 and camped here one night. I don't think I was here again until about June of 1846.

Ques. 5. When were you next here?

Ans. Well, I was off and on for once a week until about July 15th. I was making shingles and selling them to the Hudson Bay Company.

823 Ques. 6. Where were you making these shingles?

Ans. At a place on the Willamette called Linton, across from St. John's.

Ques. 7. When were you next at Vancouver.

Ans. In July, 1846, I went to work for Mr. John Switzler, and he had a job getting logs for the Hudson Bay Company up the Columbia river at the Hudson Bay mill, about six miles abov- here.

Ques. 8. How frequently were you here at Vancouver between July, 1846, and August the 14th, 1848?

Ans. I was here off and on, and after September, 1846, I was here sometimes three or four times a day. I lived just across the river from here, and Switzler kept a ferry and I used to do ferrying.

Ques. 9. How well were you acquainted with the people who resided in and about and around the Hudson Bay fort here from July, 1846, to August 14th, 1848?

Ans. Well, I knew many of them by sight. I knew what they were about. They were principally Kanakas and Canadian French and some Scotchmen.

Ques. 10. In whose employ were these people?

Ans. In the Hudson Bay. They were under its control.

Ques. 11. What were they doing?

Ans. They were farming—sometimes making hay, taking care of sheep, hogs, and farming.

Ques. 12. What stores or merchantile establishments were here from July, 1846, to August 14th, 1848?

(Objected to as immatarial.)

824 Ans. Dry goods, groceries, boots, shoes, hardware, inside the Hudson Bay fort, where they had the stockade around.

Ques. 13. Who was in charge of the Hudson Bay Co. here from July, 1846, to August 14th, 1848?

Ans. James Dougals. Ogden was here also, but don't know that he had charge of the fort. James Graham was head clerk.

Ques. 14. What schools were carried on here from July, 1846, to August 14th, 1848?

Ans. I don't know of any one but what was called the Catholic school. I heard there was a school kept inside the fort. I don't know of any school except what was called the Catholic school, kept outside the fort, and I was never there, and was never at the Catholic school as early as that, and I only know what I heard. I heard there was a Catholic school and that is all I know about it.

Ques. 15. Do you know where the Catholic priests lived between July, 1846, and August 14th, 1848?

Ans. I do not know where he lived.

Ques. 16. Do you know where he preached?

Ans. He preached in the Catholic church.

Ques. 17. Did you give your testimony in this case before?

Ans. No, sir.

Ques. 18. Who had possession and control of the land around the Hudson Bay fort and where Vancouver now is from July, 1846, to August 14th, 1848?

Ans. The Hudson Bay Co. claimed the right of it—the possession.

825 Ques. 19. When did you first hear of the Catholic church or mission claiming any right of it?

Ans. I can't tell. It was later on than that, I think, that they laid any claim to it.

Ques. 20. How much later on?

Ans. Well, I don't think I heard they laid any claim to it until 1849 or 1850, after the soldiers came. I was absent from here in California from September, 1848, until June 14th, 1849, and I heard it a month or two months or three months after I got back. I paid not much attention to it.

Ques. 21. Up till 1848 (Aug. 14th), where were the mission stations as known among the settlers located in Oregon, as near as you can recollect?

Ans. At Champoeg. I don't know of any other ones. Well, there was a Methodist mission at Salem, and Whitman's, up at Walla Walla. I don't recollect of any other one, but there was one at Oregon City, I think.

Ques. 22. Was Vancouver known among the settlers, up to the time you went to California, as a mission or missionary station?

Ans. I don't think it was generally known or called a mission station, to my recollection.

Cross-examination:

Ques. 23. What was the mission station here at Vancouver called at that time?

Ans. Well, I don't know that I ever heard *in* called anything but the Catholic church at Vancouver. When they spoke about it over here they called it the church at Vancouver.

Ques. 24. Was there a church here between 1846 and 1848?

826 Ans. Yes, sir; there was. The same old church is standing there now.

Ques. 25. Between 1846 and August 14th, 1848, did you ever attend service in that church?

Ans. I think I was in that church twice in the fore part of the summer of 1848.

Ques. 26. Was there a priest present each time?

Ans. Yes; there was. It was on Sunday. I don't recollect his name now.

Ques. 27. Did you know the priest named Father Bronillet?

Ans. Yes; I knew him. I got well acquainted with him in later years—up in the fifties—after the troops came here.

Ques. 28. Did you know the priest called afterwards Bishop Blanchet?

Ans. Yes; I heard of him, but was not acquainted with him.

Ques. 29. Whereabouts in or near Vancouver did you hear that

the Catholic school was kept outside the fort, of which you have spoken?

Ans. Well, I hear it about here somewhere. They said it was kept there about the Catholic church.

Ques. 30. Do you know William Ryan's donation land claim?

Ans. Yes, sir.

Ques. 31. It joins the military reservation on the east, don't it?

Ans. There was a piece of land between that and the reservation, in the shape of a wedge. The Ryan claim joined the reservation on the west corner.

Ques. 32. Did the Hudson Bay Co. have any fields or farm land during the time of which you have spoken, between 1846
827 and August, 1848, on any part of what is now known as the Ryan donation claim?

Ans. Well, I don't know whether that field extended up to the Ryan claim or not, but I think it did, and that they had she-p pens and sheds on the Ryan claim near where the Ryan house stood.

GEORGE W. FORCE.

The further hearing in this cause is, by consent of parties, adjourned until to-morrow morning.

W. BYRON DANIELS, *Referee.*

SIXTEENTH DAY, *April 4th*, 1888.

The same parties, by their attorneys, appeared to-day, pursuant to adjournment.

The further hearing in this cause continued until Friday, April 6th, 1888, by consent.

W. BYRON DANIELS, *Referee.*

SEVENTEENTH DAY, *April 6th*, 1888.

The further hearing herein, by consent of all parties, resumed.

The defendants now offer in evidence a full certified transcript from the Department of the Interior, General Land Office of the United States, of the records, proofs, and the papers on file in the said office touching the claims of the representatives of Amos M. Short, The City of Vancouver, The Mission of St. James, and the Authorities of the Military Reservation of the United States at Vancouver in a
828 certain contest between said persons and parties in the said Department of the Interior for the 640 acres of land alleged in the amended complaint of this action to be the land upon which the Catholic mission and missionary station was established by the Roman Catholic church, upon and near the north bank of the Columbia river, in Washington Territory, near the town of Vancouver, which has been heretofore waged by said persons and parties before said department for said 640 acres of land, and which has been finally adjudicated, determined, and settled by said department. The record, proofs, and papers so offered are offered separately and collectively, and are as follows, and are numbered from 1 to —, respectively (plaintiff object- to the introduction of said documentary evidence, both separately and collectively, on the

ground that the same is immaterial), and the same is received by me as a part of this report, subject to said objection, and is numbered and described as follows:

1. Copy of a letter addressed to the surveyor gen'l of Washington Territory by the acting Commissioner of the Gen'l Land Office, September 29th, 1859.

2. Copy of a letter addressed to the surveyor gen'l of Washington Territory by the acting Commissioner of the Gen'l Land Office, December 19th, 1859.

3. Copy of a letter dated January 23rd, 1862, addressed to the Commissioner of the Gen'l Land Office by the surveyor gen'l of Washington Territory.

4. Copy of the decision or report of the United States sur.
829 gen'l of Washington Territory, received with his letter dated Olympia, January 23rd, 1862, in the matter of the contested claims of the St. James Catholic mission, Vancouver town site, military reserve, and others, for lands at or near Vancouver, in township 2 north, of range 1 east, Washington Territory.

5. Traced copy of a plat of the town of Vancouver, transmitted by the surveyor gen'l of Washington Territory, January 23rd, 1862, to the Gen'l Land Office, in the case of the St. James Catholic mission.

6. Copy of a letter from the Commissioner of the Gen'l Land Office to the Secretary of the Interior, dated Nov. 10th, 1862, transmitting the claim of the St. James Catholic mission *et al.* for the revision and final determination of the supervisory power.

7. Copy of a communication, dated April 9th, 1863, from the Assist. Secretary of the Interior to the Commissioner of the Gen'l Land Office.

8. Copy of a telegram dated April 13th, 1863, from the Commissioner of the Gen'l Land Office to the sur. gen'l of Washington Territory.

9. Copy of a letter from the sur. gen'l of Wash. Ter. to the Com. of the Gen'l Land Office, dated April 29th, 1863.

10. Copy of the decision dated October 16th, 1863, by the Com'r of the Gen'l Land Office in the matter of the Catholic mission of St. James.

11. Copy of the appeal filed Feb. 16th, 1864, in the Gen'l Land Office by W. H. Farrar, att'y for St. James mission.

830 12. Copy of a letter from the acting Secretary of the Interior to the Com'r of the Gen'l Land Office, dated March 11th, 1872, transmitting a copy of the opinion of the Ass't Att'y Gen'l of the United States in the matter of the claim of the St. James Catholic mission and others to lands in the Vancouver dist., Wash. Ter.

12½. Copy of a letter dated May 9th, 1872, addressed by this office to the U. S. sur. gen'l, Olympia, W. T., in the matter of the St. James mission claim to lands at Vancouver, Wash. Territory.

13. Copy of a copy of the opinion, dated 29th Jan., 1872, of W. H. Smith, Ass't Att'y Gen'l, in the matter of the St. James mission at Vancouver, Washington Territory, for 640 acres of land.

14. Copy of a latter from the Att'y Gen'l of the United States to the Secretary of the Interior, dated March 2nd, 1872, transmitting the opinion of *the* Ass't Att'y Gen'l Smith upon the claim of the Roman Catholic mission of St. James, at Vancouver, in Washington Territory.

15. Copy of a letter dated Olympia, July 31st, 1872, addressed to the Commissioner of the Gen'l Land Office by L. P. Beach, sur. gen'l of Wash. Ter., and enclosures mentioned in said letter, being copy of field-notes and tracing of plat of survey of St. James mission claim at Vaucouver, W. T.

16. Copy of a letter dated March 10th, 1873, addressed by the Commissioner of the Gen'l Land Office to L. P. Beach, Esq., U. S. sur. gen'l, Olympia, Wash Ter., in the matter of the St. James mission claim to lands at Vancouver, in said Ter.

831 17. Copies, being letter dated April 21st, 1863, from L. P. Beach, sur. gen'l of Wash. Ter., and papers mentioned in said latter and enclosed therein, in the matter of the St. James mission claim to certain lands at Vancouver, Wash. Ter.

18. Copy of a latter dated May 19th, 1873, addressed by the acting Commissioner of the Gen'l Land Office to the U. S. sur. gen'l, Wash. Ter., in the matter of the St. James mission claim.

19. Copy of the decision of the Commissioner of the Gen'l Land Office, dated Aug. 4th, 1883, addresses to the U. S. sur. gen'l at Olympia, W. T., in the matter of the St. James mission claim to 640 acres at Vancouver, W. T.

20. Copy of a letter from the Commissioner of the Gen'l Land Office to the sur. gen'l Wash. Ter., dated October 14th, 1883.

21. Copy of a letter dated Oct. 6th, 1883, from Messrs. Custis & Burnett to the Com'r of the Gen'l Land Office, transmitting notice of appeal, &c., in the matter of the St. James Catholic mission, Vancouver, W. T.

22. Copy of appeal and specifications of error from the decision of the Com'r of the Gen'l Land Office of Aug. 14th, 1883, in the matter of the St. James mission claim to certain lands at Vancouver, W. T., filed Oct. 6th, 1883, by Curtis & Burnett, attorneys for said mission.

23. Copy of field-notes and plat of survey of the St. James mission claim to land at Vancouver, Wash. Ter., which formed a part of the sur. gen'l'- report of Jan. 23rd, 1862.

24. Copy of a document transmitted to the Gen'l Land Office by the sur. gen'l of Wash. Ter., with his letter of April 29th,

832 1863, pursuant to telegraph- instructions given him by the Com'r under date of April 13th, 1863.

25. Copy of a document transmitted to the Gen'l Land Office by the sur. gen'l of Wash. Ter., with his letter of April 29th, 1863, pursuant to telegraphic instructions given him by this office under date of April 13th, 1863.

26. Copy of a document transmitted to the Gen'l Land Office by the sur. gen'l of Wash. Ter., with his letter of April 29th, 1863, pursuant to telegraphic instructions given him by said office under date of April 13th, 1863.

27. Copy of a document in the matter of the St. James mission and others, claimants to certain lands at Vancouver, W. T., transmitted to the Gen'l Land Office by sur. gen'l of said Ter., with his letter of April 29th, 1863, pursuant to telegraphic instructions given him by said office April 13, 1863.

28. Copy of a document in the matter of the St. James mission and others, claimants to certain lands at Vancouver, W. T., transmitted to Gen'l Land Office by the sur. gen'l of said Ter., with his letter of April 29th, 1863, pursuant to telegraphic instructions given by said office April 13th, 1863.

29. Copy of a document in the matter of St. James mission and others, claimants to certain lands at Vancouver, W. T., transmitted to the Gen'l Land Office by the sur. gen'l of said Ter., in his letter of April 29th, 1863, pursuant to telegraphis instructions given by said office April 13th, 1863.

833 30. Copy of a document in the matter of St. James mission and others, claim-s to certain lands at Vancouver, W. T., transmitted to the Gen'l Land Office by the sur. gen'l of said Ter., pursuant to telegraphic instructions from said office April 13th, 1863.

31. Copy of a document in the matter of St. James mission and others, claimants to certain lands at Vancouver, W. T., transmitted to the Gen'l Land Office by the sur. gen'l of said Ter., with his letter of April 29th, 1863, pursuant to telegraphic instructions given him by said office April 13, 1863.

32. Copy of a document in the matter of the St. James mission and others, claimants to certain lands at Vancouver, W. T., transmitted to the Gen'l Land Office by the sur. gen'l of said Ter., with his letter of April 29th, 1863, pursuant to telegraphic instructions given him by said office April 13th, 1863.

33. Copy of a document in the matter of the St. James mission and others, claimants to certain lands at Vancouver, W. T., transmitted to the Gen'l Land Office by the sur. gen'l of said Ter., with his letter of April 29th, 1863, pursuant to telegraphic instructions given him by said office April 13th, 1863.

34. Copy of a document in the matter of the St. James mission and others, claimants to certain lands at Vancouver, W. T., transmitted to the Gen'l Land Office by the sur. gen'l of said Ter., with his letter of April 29th, 1863, pursuant to telegraphic instructions given him by this office April 13th, 1863.

834 35. Copy of a document in the matter of the St. James mission and others, claimants to certain lands at Vancouver, W. T., transmitted to the Gen'l Land Office by the sur. gen'l of said Ter., with his letter of April 29th, 1863, pursuant to telegraphic instructions given him by said office April 13th, 1863.

36. Copy of a document in the matter of the St. James mission and others, claimants to certain lands at Vancouver, W. T., transmitted to the Gen'l Land Office by the surveyor gen'l of said Ter., with his letter of April 29th, 1863, pursuant to telegraphic instructions given — said office April 13th, 1863.

37. Copy of a document given in the matter of the St. James mis-

sion and others, claimants to certain lands at Vancouver, W. T., transmitted to the Gen'l Land Office by the sur. gen'l of said Ter., with his letter of April 29th, 1863, pursuant to telegraphic instructions given him by said office April 13th, 1863.

38. Copy of a document in the matter of the St. James mission and others, claimants to certain lands at Vancouver, W. T., transmitted to the Gen'l Land Office by the sur. gen'l of said Ter., with his letter of April 29th, 1863, pursuant to telegraphic instructions given *by* him by said office April 13th, 1863.

39. Copy of "revocation of claim of 10 acres of land in Clarke county, W. T., by the Rt. Rev. A. M. Blanchet, bishop of Nesqually."

40. Copies of *copies of* letters in the matter of the St. James
835 mission and other claimants to certain lands at Vancouver, W. T., transmitted to the Gen'l Land Office by the sur. gen'l of said Ter., with his letter of April 29th, 1863, pursuant to telegraphic instructions given him by said office April 13th, 1863.

41. Papers, paged 1 to 8, inclusive, being copies of letters of Gen'l Land Office of Aug. 14th, 1873, and Nov. 3rd, 1874, and of the Secretary's decision of Nov. 2nd, 1874, in the matter of the Vancouver, Washington Territory, town site.

42. Copy of patent in favor of Abel G. Tripp, mayor of the city of Vancouver, founded on Vancouver, W. T., cash entry No. 1747.

43. Copy of a patent dated Oct. 30th, 1877, issued in favor of Amos M. Short and wife, for a donation of land in township 2 north of range 1 east, in Wash. Ter'y; donation certificate No. 275; notification No. 446.

44. Copy of a letter from the Com'r of the Gen'l Land Office to the Secretary of the Interior, dated April 18th, 1871.

45. Copy of an agreement signed by A. Holbrook and W. D. Langford, Logan & Shattock, and J. B. A. Bronillette in the matter of the St. James Catholic mission and others.

46. Copy of papers in the matter of the donation claim of Amos M. Short and wife to lands in township 2 north of range 1 east, Wash. Ter'y, being notification, proofs, and other papers upon which said claim was judicated and upon which patent, under date of Oct. 30th, 1877, was issued.

47. Copy of a letter dated February 4th, 1860, addressed by Amory Holbrook to the Com'r of the Gen'l Land Office, and copies of
836 papers marked "A and B," mentioned in said letter and enclosed therein, on file in the Gen'l Land Office, in the record of the case of the St. James mission and others, claimants to certain lands at Vancouver, Wash. Ter'y.

48. Copy of a document in the matter of the St. James mission and other claimants to certain lands at Vancouver, Wash. Ter'y, transmitted to the Gen'l Land Office by the sur. gen'l of said Ter'y, with his letter of April 29th, 1863, pursuant to telegraphic instructions given him by said office April 13th, 1863.

By consent of all parties to this suit the further introduction of defendants' exhibits resumed this 17th day of April, 1888.

W. BYRON DANIELS, *Referee.*

Being now further offered by defendants and objected to by plaintiff in form and manner as set out on pages 280 and 281 hereof.

W. BYRON DANIELS, *Referee.*

49. Copy of a document in the matter of the St. James mission and others, claimants to certain lands at Vancouver, W. T., transmitted to the Gen'l Land Office by the sur. gen'l of said Ter'y, with his letter of April 29th, 1863, pursuant to telegraphic instructions given him by said office April 13th, 1863.

50. Copies of certain papers and documents on file in the Gen'l Land Office in the matter of the St. James mission and others, claimants to land at Vancouver, W. T.

51. Copies of notification of Esther Short, widow of Amos M. Short, and papers attached as the originals thereof appear on
837 file in the Gen'l Land Office in the matter of said Shorts and others, claimants to land at Vancouver, W. T.

52. Copy of a document entitled "Ter'y of Wash., county of Clarke H. C. Morse *vs.* N. Bateman *et al.*," as the original thereof appears on file in the Gen'l Land Office in the record of the case of St. James mission and others, claimants to land at Vancouver, W. T.

53. Copy of notification No. 1281 of H. C. Morse and of papers attached thereto as the originals thereof appear on file in the Gen'l Land Office in the record of the case of the St. James mission and others, claimants to land at Vancouver, Washington Territory.

54. Copy of papers as the originals thereof appear on file in the Gen'l Land Office in the record of the case of the St. James mission and others, claimants to land at Vancouver, Wash. Ter'y.

55. Copy of a letter dated Oct. 28th, 1873, addressed to the Hon. Sec. of the Interior by the reg. of the U. S. land office at Vancouver, Wash. Ter'y.

56. Copy of a document dated July 10th, 1874, signed A. G. Tripp, mayor, as the original appears on file in the Gen'l Land Office in the record of the case of the St. James mission and others, claimants to certain lands at Vancouver, W. T.

57. Copy of a document certified under date of July 8th, 1874, by August A. Schalben, clerk of the common council of the city of Vancouver, W. T., as the original thereof appears on file in the Gen'l Land Office in the record of the St. James mission and others, claimants to land at Vancouver, W. T.

838 58. Copy of a document dated April 2nd, 1862, signed Amory Holbrook, as the original thereof appears on file in the Gen'l Land Office in the record of the case St. James mission and other claimants to land at Vancouver, Washington Territory.

59. Copy of a document certified under date of July 8th, 1874, by August A. Schalben, clerk of the common council of the city of Vancouver, Wash. Terr'y, as the original thereof appears on file in the Gen'l Land Office in the record of the case of St. James mission and others, claimants to land at Vancouver, Wash. Terr'y.

60. Copies from pages 1 to 12, both inclusive, of document as the

originals thereof appear on file in the Gen'l Land Office in the record of the case of St. James mission and others, claimants to land at Vancouver, Wash. Territory.

61. Copy of opinion dated May 2nd, 1864, of Att'y Gen'l Edward Bates, addressed to Hon. J. P. Usher, Sec. of the Interior, in the matter of the Missionary Society of the Methodist Episcopal church, claiming lands at The Dalles, Oregon, as the original thereof appears on file in the Gen'l Land Office.

62. Copy of a letter dated June 3rd, 1868, addressed by Brittain & Gray, attornies for city of Vancouver, to Hon. Jos. S. Wilson, Commissioner of the Gen'l Land Office, as the original thereof appears on file in said office.

63. Copy of letter dated Sept. 1st, 1862, of Amory Holbook to the Gen'l Land Office, as the original thereof appears on file in said office in the record of the case of the St. James mission and others, claimants to land at Vancouver, Washington Territory.

839 64. Copy of letter dated May 2nd, 1862, addressed by Amory Holbrook to the Gen'l Land Office, as the original thereof appears on file in the Gen'l Land Office in the record of the case of St. James mission and others, claimants to land at Vancouver, Washington Territory.

65. Copy of a *copy of a* letter dated April 24th, 1862, addressed by A. G. Henry, sur. gen'l of Wash. Terr'y, to Amory Holbrook, as the same appears on file in the Gen'l Land Office.

66. Copy of letter dated Jan. 25th, 1864, addressed by John J. McGilvra to the Gen'l Land Office, as the original thereof appears on file in the said office in the record in the case of the St. James mission and others, claimants to land at Vancouver, Wash. Terr'y.

67. Copy of deposition of F. M. Blanchet, executed before John C. Carroll, notary public, Oregon, Nov. 4th, 1873, as the original thereof appears on file in the Gen'l Land Office in the record of the case of St. James mission and others, claimants to land at Vancouver, Washington Territory.

68. Copy of a letter dated Oct. 29th, 1874, addressed by Chas. Ewing to the Hon. Sec. of the Interior, as the original thereof appears on file in the Gen'l Land Office in the record of the *sace* of St. James mission and others, claimants to land at Vancouver, Washington Territory.

69. Copy of a letter dated Oct. 30th, 1872, addressed by T. Mesplie to the Gen'l Land Office, as the original thereof appears on file in said office in the record of the case of St. James mission and others, claimants to land at Vancouver, Washington Territory.

840 70. Copy of papers endorsed "Memoranda filed by Rev. Bronilett on part of mission" as the original thereof appears on file in the Gen'l Land Office in the record of the case of the St. James mission and others, claimants to land at Vancouver, Wash. Terr'y.

71. Copy of a letter, dated July 24th, 187(3), from sur. gen'l of Wash. Terr'y, addressed to this office, and copies of enclosures A, B, and C, mentioned and enclosed therein, as the originals thereof appear on file in the Gen'l Land Office in the records of the case of

St. James mission and others, claimants to the land at Vancouver, Wash. Terr'y.

72. Copy of a document in the matter of the St. James mission and others, claimants to certain lands at Vancouver, W. T., transmitted to the Gen'l Land Office by the surveyor gen'l of said Terr'y, with his letter of April 29th, 1863, pursuant to telegraphic instructions given him by said office April 13th, 1863, as the original appears on file in said office.

73. Copy of affidavit of Jos. Petrain, executed before Julius Suiste, notary public, W. T., Oct. 25th, 1873, as the original thereof appears on file in the General Land Office in the record of the case of St. James mission and others, claimants to land at Vancouver, Wash. Terr'y.

74. Copy of latter dated June 27th, 1869, addressed to the Gen'l Land Office by Alek C. Smith as the original thereof appears on file in said office in the record of the case of St. James — and others, claimants to land at Vancouver, Wash. Terr'y.

841 75. Copy of letter, dated July 20th, 1865, addressed to the Gen'l Land Office by the Ass't Sec. of the Department of the Interior as the original thereof appears on file in said office in the record of the case of St. James mission and others, claimants to land at Vancouver, Wash. Terr'y.

76. Copy of papers, each dated Feb. 15th, 1854, signed H. C. Morse and copy of affidavits of M. A. Tubb endorsed thereon, each executed before Jos. W. Fletcher, register at Vancouver, W. T., July 8th, 1868, as the originals thereof appear on file in the Gen'l Land Office in the records of the case of the St. James mission and others, claimants to land at Vancouver, W. T.

77. Copy of latter, dated June 19th, 1872, addressed by the sur. gen'l of Wash. Terr'y to the Gen'l Land Office in the record of the case of St. James mission and others, claimants to land at Vancouver, Washington Territory.

78. Copy of letter, dated Oct. 18, 1883, addressed to Gen'l Land Office by W. McMicken, sur. gen'l, as the original thereof appears on file in the record of the case of St. James mission and other claimants to land at Vancouver, W. T.

79. Copy of a document, being a statement made by Hon. Willis Drummond, late Commissioner General Land Office, relative to suspension of action in the matter of the St. James mission claim to land at Vancouver, W. T., as the original thereof appears on file in said office.

80. Copy of affidavit of Wm. Ryan executed Oct. 25th, 1873, before Julius Suiste, notary public, W. T., as the original thereof appears on file in the Gen'l Land Office in the record of the
842 case of St. James mission and other, claimants to land at Vancouver, Wash. Terr'y.

81. Copy of affidavit of Chas. Fizete, executed Oct. 25th, 1875, before Julius Suiste, notary public, W. T., as the original thereof appears on file in the Gen'l Land Office in the record of the case of St. James mission and others, claimants to land at Vancouver, Wash. Terr'y.

82. Copy of a paper relating the claim of St. James mission, Vancouver, Wash. Terr'y, from the original on file in the Gen'l Land Office.

83. Copy of a deposition of William E. Place, sworn to before Edw. F. Brown, notary public, Feb. 27th, 1873, and copy of map attached thereto, as the original thereof appears on file in the Gen'l Land Office in the record of the case of St. James mission and other claimants to land at Vancouver, Washington Territory.

84. Copy of document addressed to August A. Schalben, January 30th, 1873, by Britton & Gray, and copy of affidavit of Horace J. Gray, executed before John W. Pilling, notary public, Sept. 3rd, 1874, as the original thereof appears on file in the Gen'l Land Office in the record of the case of the St. James mission and other claimants to land at Vancouver, Washington Territory.

85. Copies of papers dated, respectively, Oct. 20th, Oct. 23rd, Oct. 31st, and Nov. 5th, 1883, as the originals thereof appear on file in the Gen'l Land Office in the record of the case of St. James mission and others, claimants to land at Vancouver, Washington Territory.

843 86. Copy of affidavit of B. A. Bronilette, executed before N. Callan, notary public, March 2nd, 1882, as the original thereof appears on file in the Gen'l Land Office in the record of the case of St. James mission and others, claimants to land at Vancouver, Wash. Terr'y.

87. Copy of papers dated Jan. 9th, 1886, being a schedule of papers reported by the surveyor gen'l as being on fole in his office at Olympia, Wash. Terr'y, as the original thereof appears on file in the Gen'l Land Office in the record of the case of St. James mission and others, claimants to land at Vancouver, Wash. Terr'y.

88. Copy of letter dated Jan. 9th, 1886, addressed to the Gen'l Land Office by the U. S. sur. gen'l of Wash. Terr'y, as the original thereof appears on file in this office in the record of the case of St. James mission and others, claimants to land at Vancouver, Wash. Terr'y.

89. Copy of a copy dated Oct. 18th, 1883, addressed to the Gen'l Land Office by W. McMickens, sur. gen'l of Wash. Ter., as the original thereof appears on file in the Gen'l Land Office in the record of the case of St. James mission and others, claimants to land at Vancouver, Wash. Terr'y.

90. Copy of document certified by William W. Belknap, Sec. of War, Sept. 13th, 1873, and a certificate attached thereto, as the original appears on file in the Gen'l Land Office in the record of the case of St. James mission and other claimants to land at Vancouver, Wash. Terr'y.

91. Copy of letter dated July 7th, 1873, addressed to the Gen'l Land Office by the U. S. s'y'r gen'l at Olympia, W. T., as the
844 same appears of record in said office.

92. Copy of letter dated July 28th, 1883, addressed by Curtis & Burdette to the Gen'l Land Office, as the original thereof appears on file in the Gen'l Land Office in the record of the case

of St. James mission and others, claimants to land at Vancouver, Wash. Terr'y.

93. Copy of a letter dated Feb. 23rd, 1864, addressed by the Commissioner of the Gen'l Land Office to the Sec. of the Interior, as the same appears of record in said office.

94. Copy of a letter dated May 9th, 1872, addressed by the Commissioner of the Gen'l Land Office to U. S. sur. gen'l, Olympia, W. T., as the same appears of record in said office.

95. Copy of a letter dated January 31st, 1874, addressed to the Gen'l Land Office by J. C. Hileman, register, as the original thereof appears on file in said office.

96. Copy of a letter dated July 26th, 1883, addressed to the Gen'l Land Office by Curtis and Burdette, as the original thereof appears on file in said office in the record of the case of St. James mission and others, claimants to land at Vancouver, Wash. Terr'y.

97. Copy of a letter dated Jult 3rd, 1877, addressed by the Sec. of the Interior to the Commissioner of the Gen'l Land Office, and copy of paper dated June 29th, 1877, enclosed therein, as the original thereof appears on file in said office.

Defendants now offer in evidence a copy of a letter of Rufus
845 Ingalls, capt. and A. Q. M., dated Jan. 15th, 1859, addressed to Major Gen'l Thomas S. Jessup, q'master gen. U. S. A., Washington, D. C., duly certified as a true and full copy on the 28th day of Feb'y, 1888, by Wm. C. Endicott, Sec'y of War, and under his seal of office; which document is objected to by plaintiff as immaterial, and, subject to such objections, is received and filed herein, and designated by me Defendants' Exhibit "O."

W. BYRON DANIELS, *Referee.*

Defendants next offer in evidence copies of the following documents, to wit: Letter of J. D. Cameron, Sec. of War, addressed to Hon. Allen G. Thurman, chairman of Committee on Private Land Claims, U. S. Senate, Feb. 17th, 1877, with copies of affidavits, letters, and other documents thereto attached; all of which copies are duly certified as true and full by and under the official seal of Wm. C. Endicott, Sec. of War, March, 1888; which document is objected to by plaintiff as immaterial, and, subject to such objection, is received and filed herein, and designated by me as Defendants' Exhibit "P."

W. BYRON DANIELS, *Referee.*

The defendants herein now rest their case.

W. BYRON DANIELS, *Referee.*

TERRITORY OF WASHINGTON, } ss:
County of Clarke, }

I, W. Byron Daniels, referee in this cause, hereby certify that, pursuant to the order of the district court of the 2nd judicial district of Washington Territory holding terms at Vancouver, I did, at the times
846 hereinbefore set out, at Vancouver, Washington Territory, take down and reduce to writing the testimony of the several witnesses hereinbefore named in volumes 1, 2, 6, and 7 of this my

report, and that said testimony was reduced to writing in the presence of said witnesses respectively at the times they testified therein, as shown in this report, and that at and before the testimony was so taken and reduced to writing each of said witnesses *were* by me first duly sworn to tell the truth, the whole truth, and nothing but the truth; and after they had been so sworn and had testified and their testimony was reduced to writing as aforesaid I did carefully read over to each of said witnesses the testimony which he or she had given herein, whereupon they did each of them, in my presence, subscribe their respective names thereto, as in the volumes of this report above enumerated fully appears; and I further certify that the several exhibits to testimony herein and exhibits consisting of the documentary evidence of the respective parties to this suit were received by me and filed herein, as appears in the several volumes of this report numbered from one to fifteen, inclusive, and in two printed books accompanying the same, and that this division into volumes as aforesaid is necessary for convenience, and that each of them *are* entitled "The Catholic Bishop of Nesqually *vs.* The United States *et al.*, referee's report, vol. —, Vancouver, Washington Territory."

I further certify that in taking the testimony aforesaid and
847 in taking, noting, and filing the documentary evidence herein and arranging, indexing, and superintending the binding of these volumes I have been employed as referee herein twenty-three (23) days, between and inclusive of the dates, to wit, August the 1st to 13th, 1887, and April 2nd to 24th, 1888; and I further certify that in doing the foregoing work there *has* been written by me for the plaintiff, upon its direct and cross examination of witnesses and in the taking and noting of its documentary evidence, four hundred and two (402) folios of one hundred words (100) each, and that in doing the like for the defendant The United States there *has* been written by me five hundred and thirty-nine (539) folios of one hundred (100) — each; and I further certify that I have paid in cash for stationary used herein the sum of four dollars and thirty cents; for a certified copy of the order of the said court appointing the referee herein, the sum of one dollar and forty cents; for rent of the room used for the hearing herein before the referee, the sum of eight dollars; for binding the fifteen volumes of this report, the sum of twelve ($12) dollars; all of which said fees and costs, apportioned between the plaintiff and the United States, I recapitulate as follows:

To the plaintiff:

402 folios at 20 cts. each	$80 40
9⅘ of the 23 days aforesaid at $5 each	49 00
Stationary	1 84
Room rent	3 41
848 Binding five (5) volumes	4 00
Total	$138 65

To the United States:

539 folios at 20 each	107 80
13⅓ of the 23 days aforesaid at $5.00 each	66 00
Stationary, $2.46; room rent, $4.59—total	7 05
Binding 10 volumes	8 00
Certified copy order appointing referee	1 40
Total	$190 25

W. BYRON DANIELS, *Referee.*

The end of volume No. 7.

849 CATHOLIC BISHOP OF NESQUALLY
vs.
UNITED STATES *et al.*

Referee's Report. Vol. 8.

Defense.

Documentary Evidence "A" to "P," both inclusive.

850 UNITED STATES OF AMERICA,
WAR DEPARTMENT,
WASHINGTON CITY, *March 3rd*, 1887.

Pursuant to section 882, of the Revised Statutes, I hereby certify, that it appears from the records of the adjutant general's office, that the annexed document is a true copy of the paper on file in this department.

R. C. DRUM,
Adjutant General.

Be it known that Richard C. Drum, who signed the foregoing certificate, is the adjutant general of the Army of the United States, and that to his attestation as such full faith and credit are and ought to be given.

In witness whereof, I have hereunto set my hand and caused the [SEAL.] seal of the War Department to be affixed, on this 4th. day of March, one thousand eight hundred and eighty-seven.

WM. C. ENDICOTT,
Secretary of War.

HEADQUARTERS 11TH MIL'Y DEP'T,
FORT VANCOUVER, O. T., *October 1st*, 1850.

Notice is hereby given to all whom it may concern, that a military reservation for and in behalf of the Government of the United States is hereby declared as follows:—Commencing at the point where the meridian line two miles west from the United States flagstaff, at the military post near Fort Vancouver, O. T. strikes
851 the north bank of the Columbia river, thence due north on said meridian four miles, thence due east four miles, thence due south to the bank of the Columbia river, thence down said

bank to the place of beginning, said reservation being subject only to the lawful claims of the Hudson's Bay Company, as guaranteed under the treaty between the United States and Great Britain, dated July 17th, one thousand eight hundred and forty-six.

All improvements made within the above-described limits, by resident settlers prior to the date of this notice, will be appraised by a board of officers, and payment recommended for the same.

(Signed) W. W. LORING,
Lt. Col. R. M. R. & Bvt. Col. U. S. A.
Comdg. 11th. Mil'y. Dept.

Official :—

R. M. MORRIS,
Act. Asst. Adjt. Genl.

A true copy :—

E. D. TOWNSEND,
Asst. Adjt. Genl.

Headquarters Pacific division, San Francisco, March 28, 1853.

(Endorsed:) In the district court of the 2nd judicial district of Washington Territory, at Vancouver. The Corporation of the Catholic Bishop of Nesqually, plaintiff, *vs.* The United States *et al.*, defendants. Defendants' Documentary Evidence, Exhibit "A." W. Byron Daniels, referee.

852 UNITED STATES OF AMERICA,
WAR DEPARTMENT,
WASHINGTON CITY, *March 3rd*, 1887.

Pursuant to section 882, of the Revised Statutes, I hereby certify that it appears from the records of the adjutant general's office, that the annexed document is a true copy of orders on file in this department.

R. C. DRUM,
Adjutant General.

Be it known, that Richard C. Drum, who signed the foregoing certificate, is the adjutant general of the Army of the United States, and that to his attestation as such full faith and credit are and ought to be given.

In witness whereof I have hereunto set my hand and caused the seal of the War Department to be affixed, on this [SEAL.] 4th day of March, one thousand eight hundred and eighty-seven.

WM. C. ENDICOTT,
Secretary of War.

Limits of Government Reservation.

HEADQUARTERS FORT VANCOUVER, W. T.,
December 8th, 1854.

Orders No. 77.

In obedience to the instructions of the Secretary of War, conveyed to the general commanding the department of the Pacific, on the 29th of October, 1853, the following described lands containing 640 acres, are reserved for military purposes, to wit: Commencing at a cedar post branded with the letters "U. S.," and on the bank of the river near the boat landing, and extending
853 from this point twelve hundred yards up the river to a similar post branded with the letters "U. S.," and about one hundred yards above the court-house. Thence a little over one mile and a half on a line running north, 21 degrees and 31 minutes east, to a cedar post marked and described as above; thence on a line north 73 degrees west for about twelve hundred yards; thence south 21 degrees and 30 minutes west to the point of commencement. The line marking the front of the reserve, extends to the channel of the river and cedar posts marked with the letters "U. S.," are placed at intervals along its boundaries. By order of Lieut. Col. Bonnevill.

(Signed) B. D. FORSYTHE,
1st Lieut., 4th Infantry, Adjutant.

Official copy. H. R. ANDERSON,
2nd Lieut., 4th Art., A. D. C. and A. A. A. G.

(Endorsed:) In the dist. court of the 2nd jud. dist. of Wash. Terr'y at Vancouver. The Corporation of the Catholic Bishop of Nesqually, plaintiff, *vs.* The United States *et al.*, defendants. Defendants' Documentary Evidence, Exhibit "B." W. Byron Daniels, referee.

854 UNITED STATES OF AMERICA,
WAR DEPARTMENT,
WASHINGTON CITY, *March 3rd*, 1887.

Pursuant to section 882, of the Revised Statutes, I hereby certify that it appears from the records of the adjutant general's office, that the annexed document is a true copy from the original on file.

R. C. DRUM,
Adjutant General.

Be it known that Richard C. Drum, who signed the foregoing certificate, is the adjutant general of the Army of the United States, and that to his attestation as such, full faith and credit are and ought to be given.

In witness whereof, I have hereunto set my hand, and caused the

seal of the War Department to be affixed, on this 4th
[SEAL.] day of March, one thousand eight hundred and eighty-seven.

WM. C. ENDICOTT,
Secretary of War.

HEADQUARTERS 11TH MILITARY DEPARTMENT,
COLUMBIA BARRACKS, O. T., *November 20th*, 1850.

GENERAL: I have the honor to transmit herewith a map of the military reservation, as surveyed and established at this point, subject to the claims of the hon. Hudson's Bay Co., as guaranteed under treaty. I am sir

Very respectfully, your obt. servant,

W. W. LORING,
Lt. Col. R. M. R. Bvt. Col. U. S. A.,
Comdg. 11th Mil. Dept.

855 Bvt. Maj. Genl. R. Jones, adjutant general, U. S. Army, Washington city.

(Endorsed:) 2—1734, A. G. O., 1887. In the dist. court of the 2nd jud. dist. of Washington Territory, at Vancouver. Corporation of the Catholic Bishop of Nesqually, plaintiff, *vs.* The United States *et als.*, defendants. Defendants' Documentary Evidence, Exhibit "C." W. Byron Daniels, referee.

UNITED STATES OF AMERICA,
WAR DEPARTMENT,
WASHINGTON CITY, *March 3rd*, 1887.

Pursuant to section 882, of the Revised Statutes, I hereby certify that it appears from the records of the adjutant general's office, that the annexed map is a correct traced copy from the original on file.

R. C. DRUM, *Adjt. Genl.*

Be it known that Richard C. Drum, who signed the foregoing certificate, is the adjutant general of the Army of the United States, and that to his attestation as such, full faith and credit are and ought to be given.

In witness hereof, I have hereunto set my hand, and caused the seal of the War Department to be affixed on this 4th
[SEAL.] day of March, one thousand eight hundred and eighty-seven.

WM. C. ENDICOTT,
Sec. of War.

(Here follows map marked p. 855½.)

856 Said map is endorsed as follows:

8—689, S. of 1850. Rec'd Feb'y 15th, '51. In the dist. court of the 2nd judicial dist. of Washington Territory, at Van-

conver. The Corporation of the Catholic Bishop of Nesqually, plaintiff, *vs.* The United States *et als.*, defendants. Defendants' Documentary Evidence, Exhibit "D." W. Byron Daniels, referee.

UNITED STATES OF AMERICA,
WAR DEPARTMENT,
WASHINGTON CITY, *March 3rd*, 1887.

Pursuant to section 882, of the Revised Statutes, I hereby certify that it appears from the records of the adjutant general's office that the annexed document is a true copy of the paper on file in this department.

R. C. DRUM,
Adjutant General.

Be it known that Richard C. Drum, who signed the foregoing certificate, is the adjutant general of the Army of the United States, and that to his attestation as such, full faith and credit are and ought to be given.

[SEAL.] In witness whereof, I have hereunto set my hand, and caused the seal of the War Department to be affixed, on this 4th day of March, one thousand eight hundred and eighty-seven.

WM. C. ENDICOTT,
Secretary of War.

857 HEADQUARTERS, COL. BARRACKS, O. T.,
February 23rd, 1853.

I would also urge that some decision may be made, respecting the confirmation of the military reserve at this post. As it now stands it appears to be a constant cause for irritation with the citizens and the legislature as you may have seen by the slip I forwarded to you by the last mail.

The Hudson Bay Company have given their consent to its confirmation and it can be done without compromising the Government in the matter, by reserving their possessory rights, as Colonel Loring did in his proclamation of it, this would completely exclude all other claimants and give the courts of justice some basis to throw around us, the protection of the law.

This would settle the whole subject until after the Hudson Bay Company, shall have been purchased out, when the reservation can be reduced to any limits or removed altogether, for full details, I refer you to my last letter, with the papers accompanying it.

I am major, very respectfully, your most ob'd't serv't,
(Signed) B. L. E. BONNEVILLE,
Lieut. Col. 4th Inf't'y.

Major E. D. Townsend, asst. adj't gen'l, h'd'q'rs Pac. div., San Francisco, Cala.

A true copy:—

E. D. TOWNSEND,
Asst. Adj't Gen'l, Headquarters, Pac. Div.

San Francisco, March 28th, 1853.

858 (Endorsed:) In the district court of the 2nd judicial district of Washington Territory, at Vancouver. The Corporation of the Catholic Bishop of Nesqually, plaintiff, *vs.* The United States *et als.*, defendants. Defendants' Documentary Evidence, Exhibit "E." W. Byron Daniels, referee.

UNITED STATES OF AMERICA,
WAR DEPARTMENT,
WASHINGTON CITY, *March 3rd*, 1887.

Pursuant to section 882 of the Revised Statutes, I hereby certify that it appears from the records of the adjutant general's office, that the annexed document is a correct transcript of a letter recorded in this department.

R. C. DRUM,
Adjutant General.

Be it known that Richard C. Drum, who signed the foregoing certificate, is the adjutant general of the Army of the United States, and that to his asstestation as such, full faith and credit are and ought to be given.

In witness whereof, I have hereunto set my hand and caused the seal of the War Department to be affixed, on this 4th day of March, one thousand eight hundred and eighty-seven.

WM. C. ENDICOTT,
[SEAL.] *Secretary of War.*

859 WAR DEPARTMENT, WASHINGTON, *October 29th*, 1853.

Genl. E. A. Hitchcock, commanding Pacific division, San Francisco, California.

SIR: Your letter of the 30th. of March, was duly received, urging the confirmation of the reservation of a tract of land 4 miles square, at Ft. Vancouver, O. T., made by order of Col. Loring, on the 1st. of October, 1850.

Since your original recommendations upon this subject were made, an act has been passed, limiting the quantity of land subject to reservation for fortifications, to 640 acres; see act of February 14th. 1853, section- 6–10, statutes 159. You will therefore cause a tract to be surveyed embracing only that quantity of land for the use of the military post. The boundaries of the reserve, should be plainly designated by land marks, and on the plat of the survey, should be accurately stated, so that the same may be laid down on the plats of the General Land Office. Should it be necessary to include and improvements of settlers in the reservation, you will cause a special report to be made showing their extent, condition and probable value.

The original reservation of Col. Loring, embraced some private "donation claims" and remonstrances against its confirmation were on that and other grounds, addressed to this department. Before

proceeding in the matter, it was deemed proper to obtain the
860 opinion of the Attorney General, upon the objections presented and I enclose a copy of it for your information.

Very respectfully, your obt. servt.

JEFFN. DAVIS,
Secretary of War.

(Endorsed:) In the district court of the 2nd judicial district of Washington Territory, at Vancouver. The Corporation of the Catholic Bishop of Nesqually, plaintiff, *vs.* The United States *et als.*, defendants. Defendants' Documentary Evidence, Exhibit "F." W. Byron Daniels, referee.

UNITED STATES OF AMERICA,
WAR DEPARTMENT.
WASHINGTON CITY, *March 3rd*, 1887.

Pursuant to section 882 of the Revised Statutes, I hereby certify that it appears from the records of the adjutant general's office, that the annexed document is a true copy of a letter on file in this department.

R. C. DRUM,
Adjt. General.

Be it known that Richard C. Drum, who signed the foregoing certificate is the adjutant general of the Army of the United States, and that to his attestation as such full faith and credit are and ought to be given.

In witness whereof I have hereunto set my hand, and caused the seal of the War Department to be affixed on this 4th. day of March, one thousand eight hundred and eighty-seven.

[SEAL.] WM. C. ENDICOTT,
Secretary of War.

861 (Copy.)

FORT VANCOUVER, W. T., *November 9th.*, 1853.

SIR:—I enclose to you a copy of an order from the Secretary of War, dated January 29th. 1848, in reference to the military reserve in this country and also a copy of a proclamation published October 31st. 1850, by Col. Loring, then in command at this post, defining the military reserve at this place.

By recent act of Congress, the reservation for forts in Oregon, *ah*ve been limited to 640 acres, as yet, I have received no instructions, in regard to surveying the military reserve at this post, and consequently do not know the exact limits of the 640 acres which it is intended shall be retained for military purposes.

In order to prevent persons from settling on the land which may be selected for the reserve, I have thought it proper to announce that the reservation declared by Col. Loring, still exists, and that his proclamation still continues in force. It is probable that the gen'l commanding the Pacific division, will soon inform me what part of the 4 square miles reserven by Col. Loring, will be retained

for military purposes, but as settlers may in the meanwhile establish themselves in this neighborhood, I ask that you will co-operate with me as far as you can, in restraining persons from settling here, before the military reserve has been surveyed.

I am sir, very respectfully, your ob't serv't,

(Signed) B. L. E. BONNEVILLE,
L't Col. 4th Inf'y.

862 To Col. C. K. Gardner, surveyor genl. of Oregon, Oregon City, O. T.

A true copy of a copy now in the U. S. land office at Fort Vancouver, W. T.

(Signed) HENRY W. JANES,
Capt. and A. Q. M., U. S. A., Depot Q. M.

Vancouver depot, W. T., June 6th, 1872.

Official copy.

H. R. ANDERSON,
2nd Lieut. 4th Art., A. D. C. & Act. A. A. G.

(Endorsed:) In the dist. court of the 2nd jud. dist. of Wash. Terr'y, at Vancouver. The Corporation of the Catholic Bishop of Nesqually, plaintiff, *vs.* The United States *et als.*, defendants. Defendants' Documentary Evidence, Exhibit "G." W. Byron Daniels, referee.

UNITED STATES OF AMERICA,
WAR DEPARTMENT,
WASHINGTON CITY, *March 3rd*, 1887.

Pursuant to section 882, of the Revised Statutes, I hereby certify, that it appears from the records, of the adjutant general's office, that the annexed document is a true copy of a paper on file in this department.

R. C. DRUM,
Adjutant General.

Be it known that Richard C. Drum, who signed the foregoing certificate, is the adjutant general of the Army of the United States, and that to his attestation as such, full faith and credit are and ought to be given.

863 In witness whereof, I have hereunto set my hand, and caused the seal of the War Department to be affixed, on
[SEAL.] this 4th day of March, one thousand eight hundred and eighty-seven.

WM. C. ENDICOTT,
Secretary of War.

Proceedings of a board of officers assembled at Ft. Vancouver, W. T., by virtue of the following order:

Orders No. 1.

HEADQUARTERS FT. VANCOUVER, W. T.,
January 17*th*, 1854.

In order to carry out instructions received from the War Department, dated October 29th, 1853, and from the headquarters Department of the Pacific, dated December 7th, 1853, Surgeon B. M. Byrne, Captain T. L. Brent, A. Q. M., and Captain C. C. Augur, 4th Infantry, will constitute a board to assemble at this post, at 10 o'clock a. m. to-day, to examine and report upon the extent, condition, and probable value of all improvements contained within the limits of the present military reservation at this post, of 640 acres.

By order of Lt. Col. Bonniville.

(Signed) JNO. WITHERS,
2*nd Lt.* 4 *Inf'y, Act'g Adj't.*

FORT VANCOUVER, W. T., *January* 17*th*, 1854.

The board met pursuant to the above order. Every member of the board was present.

To enable the members to possess themselves of the neces-
864 sary facts and information for giving an intelligent opinion upon the different points contemplated by the order, the board adjourned to Monday, the 23rd inst.

FT. VANCOUVER, W. T., *Jan.* 23*rd*, 1854.

The board met pursuant to adjournment, all the members being present.

The board determined as follows respecting the "extent, condition, and probable value of the improvements upon the reserve:"

1*st. Extent of Improvements.*

The board find that the military reservation, as designated by the commanding officer, is a portion of the lands claimed by the Hudson's Bay Company, and that it includes their entire establishment at this place, and that with the exception of those belonging to the United States they claim all the buildings upon it as their property, and also all the improvements of whatever character.

The board find that about one-half of this reservation has been under cultivation at various times, and that upon this portion of it there are about three miles of fence, about eighty fruit trees, about eight acres of wheat in the ground, and thirteen small houses, some of them being rented at from eight to twenty dollars per month; one large building rented by the U. S. as a hospital at forty dollars per month, one large storehouse upon the river, and the Catholic church and parsonage attached. Besides these there is their trading
865 establishment, surrounded by heavy pickets, consisting of storehouses, shops, office, &c., and the dwelling-houses of the officers of the company.

2nd. Condition of Improvements.

The board find that, with few exceptions, all the above buildings, fences, pickets, &c., are what would be termed old, but it cannot arrive at the exact age of any of them. There are, besides, some shells of houses and portions of decayed fences which they have not thought worth considering at all.

3rd. Probable Value of Improvements.

The board estimate the value of the above improvements to be as follows, guiding themselves in their valuation of buildings by what many of them are rented for and for fences by the current rates for such improvements:

For	pickets around trading establishment	$3,000 00
"	thirteen houses outside of pickets	5,200 00
"	the hospital building	1,333 00
"	four old sheds	100 00
"	the Catholic church	2,000 00
"	parsonage attached	1,000 00
"	court-house	1,000 00
"	three stables	1,000 00
"	storehouse on river	1,000 00
"	4 large storehouses inside of pickets ($2,500.00 each)	10,000 00
"	1 dwelling-house inside the pickets (governor's)	4,000 00
	Amount carried forward	$29,633 00
866	Amount brought forward	$29,633 00
For	1 dwelling-house inside the pickers (Graham's)	4,000 00
"	3 houses (officers', &c., inside pickets), $1,000 each	3,000 00
"	1 granary	3,000 00
"	1 blacksmith's shop	500 00
"	1 bake-house	1,500 00
"	1 magazine	500 00
"	1 washing-house	500 00
"	1 kitchin (governor's house)	1,000 00
"	1 butcher's shop, &c.	500 00
"	3 wells at $250.00 each	750 00
"	80 fruit trees at $20.00 each	1,600 00
"	8 acres of wheat in ground at $15 per acre	120 00
"	3 miles of fence at $300 per mile	900 00
	Total probable value	$47,503 00

In estimating the above to be the profitable value of the property and improvements upon the reserve claimed by the Hudson's Bay Company the board have proceeded as though they were claimed by private individuals, and have not deemed it their province to

enquire whether they have an advantitious value as being an integral portion of the H. B. Company's establishments in this country under the peculiar privileges and rights claimed by that company.

There being no further business before it, the board adjourned *sine die*.

(Signed) B. M. BYRNE,
Surg. U. S. A.
T. L. BRENT, *A. Q. M.*
C. C. AUGUR,
Capt. 4 Inf.

867 In approving the proceedings of the board of officers I do not wish to be understood that the buildings will answer for the military service. They can stand a short period only when they cease to receive the great care bestowed on them. The buildings now occupied as hospital and storehouse will answer as they now do until others be erected more conveniently located.

(Signed) B. L. E. BONNEVILLE,
Lt. Col. 4 Inf'y, Commanding.

Official.
HENRY C. HODGES,
1st Lieut. & Adj't 4th Infantry, Post Adjutant.

(Endorsed:) In the district court of the 2bd judicial district of Washington Territory, at Vancouver. The Corporation of the Catholic Bishop of Nesqually, plaintiff, *vs.* The United States *et als.*, defendants. Defendants' Documentary Evidence, Exhibit "H." W. Byron Daniels, referee.

868 UNITED STATES OF AMERICA,
WAR DEPARTMENT,
WASHINGTON CITY, *March 3rd*, 1887.

Pursuant to section 882, of the Revised Statutes, I hereby certify that it appears from the records of the adjutant general's office, that the annexed document is a true extract from the original on file.

R. C. DRUM,
Adjutant General.

Be it known that Richard C. Drum, who signed the foregoing certificate is the adjutant general of the Army of the United States, and that to his attestation as such, full faith and credit are and ought to be given.

In witness whereof I have hereunto set my hand and caused the seal of the War Department to be affixed, on the 4th. day of March, one thousand eight hundred and eighty-seven.

[SEAL.] WM. C. ENDICOTT,
Secretary of War.

HEADQUARTERS PACIFIC DIVISION,
SONOMA, *December* 30, 1850.

Bvt. Major General R. Jones, adjutant general, Washington.

SIR: I have the honor to transmit herewith for the information

of the department the following reports, to wit: I also enclose herewith a map of the Government reserve at Vancouver, Oregon.

Very respectfully, your obt. svt.,

PERSIFOR F. SMITH,
Bvt. Maj. Genl. Com'g Div.

(Here follows map marked p. 868½.)

869 (Endorsed:) In the district court of the 2nd judicial district of Washington Territory, at Vancouver. The Corporation of the Catholic Bishop of Nesqually, plaintiff, *vs.* The United States *et als.*, defendants. Defendants' Documentary Evidence, Exhibit "I." W. Byron Daniels, referee.

3—1734, *O.* G. O., 1887.

UNITED STATES OF AMERICA,
WAR DEPARTMENT,
WASHINGTON CITY, *March 3rd*, 1887.

Pursuant to section 882, of the Revised Statutes, I hereby certify that it appears from the records of the adjutant general's office, that the annexed document is a true copy of the original on file.

R. C. DRUM.
Adjutant General.

Be it known that Richard C. Drum, who signed the foregoing certificate, is the adjutant general of the Army of the United States, and that to his attestation as such, full faith and credit are and ought to be given.

[SEAL.] In witness whereof, I have hereunto set my hane and caused the seal of the War Department to be affixed, on this 4th day of March, one thousand eight hundred and eighty-seven.

WM. C. ENDICOTT,
Secretary of War.

870 DEPARTMENT OF STATE,
WASHINGTON, *19th May*, 1859.

Hon'ble John B. Floyd, Secretary of War.

SIR: I will thank you to cause me to be furnished with a transcript of the letter from Captain Rufus Ingalls to Gen'l Jesup, to which reference is made in the enclosed copy of a note of the 13th inst., addressed to this department by Lord Lyons, the Brittish minister accredited to this Government.

I have the honor to be, very respectfully, sir, your obt. servant,

LEWIS CASS.

(Copy.)

WASHINGTON, *May 13th*, 1859.

SIR: The Hudson's Bay Company have called the attention to her majesty's government to a claim to property of the company at

Fort Vancouver, which has been advanced on behalf of the Roman Catholic mission by the Roman Catholic bishop of Nesqually.

The unfounded character of this claim appears from documents of which copies have been laid before her majesty's government, particularly from a letter addressed on the 15th of January last, by Captain Rufus Ingalls, United States assistant quartermaster general at Fort Vancouver, to Major General Jesup, quartermaster general of the United States Army. Her majesty's govern-
871 ment are confident that the Government of the United States will give no countenance to this unreasonable pretention on the part of the Roman Catholic mission.

I have the honor to be, with the highest consideration, sir, your most obedient humble servant,

(Signed) LYONS.

The Honorable Lewis Cass, &c., &c., &c.

(Endorsed :) In the district court of the 2nd judicial district of Washington Territory, at Vancouver. The Corporation of the Catholic Bishop of Nesqually, plaintiff, *vs.* The United States *et als.*, defendants. Defendants' Documentary Evidence, Exhibit "J." W. Byron Daniels, referee.

988, C, War Dep't, 1887.

UNITED STATES OF AMERICA,
WAR DEPARTMENT,
WASHINGTON CITY, *March 3rd*, 1887.

Pursuant to section 882, of the Revised Statutes, I hereby certify that it appears from the records of the adjutant general's office, that the annexed document is a true copy of a paper on file in this department.

R. C. DRUM.
Adjutant General.

Be it known that Richard C. Drum, who signed the foregoing certificate is the adjutant general of the Army of the United
872 States, and that to his attestation as such, full faith and credit are and ought to be given.

In witness whereof, I hereunto have set my hand and caused the
[SEAL.] seal of the War Department to be affixed, on this 4th. day of March, one thousand eight hundred and eighty-seven.

WM. C. ENDICOTT,
Secretary of War.

Duplicate of letter attached and marked "Defendants' Documentary Evidence, Exhibit 'K,'" is found in vol. 3.

UNITED STATES OF AMERICA,
WAR DEPARTMENT,
WASHINGTON CITY, *March 3rd*, 1887.

Pursuant to section 882 of the Revised Statutes, I hereby certify that it appears from the records of the adjutant general's office, that

the annexed document is a true copy of a paper on file in this department.

R. C. DRMM,
Adjutant General.

Be it known that Richard C. Drum who signed the foregoing certificate, is the adjutant general of the Army of the United States, and that to his attestation as such, full faith and credit are and ought to be given.

In witness whereof I have hereunto set my hand and caused the seal of the War Department to be affixed, on this 4th. day of March, one thousand eight hundred and eighty-seven.

[SEAL.] WM. C. ENDICOTT,
Secretary of War.

873 HEADQU'S D'T OF THE PACIFIC,
SAN FRANCISCO, CAL., *Dec'r 7th*, 1853.

SIR:—By direction of the commanding general, I enclose herewith a copy of a letter from the honorable Secretary of War, dated Oct. 29th. in relation to the military reserve at Vancouver.

The general desires you to have the reserve laid off in accordance with the provisions of this letter and to furnish a plot and description of the boundaries, in which plot the boundaries shall be distinctly marked. Inasmuch as in Col. Loring's reserve, the flag-staff was taken as a starting point from which the several lines were run, the general suggests that the same point may be assumed by you. You will please furnish an estimate of the value of any improvements that may have been made within the *react* laid off by you.

I am sir, very resoectfully, your obt. servant,

(Signed) E. D. TOWNSEND,
Asst. Adjt. Genl.

Lieut. Col. B. L. E. Bonneville, 4th infantry, Fort Vancouver, Washington Territory.

Official:—

HENRY C. HODGES,
1st. Lieut. & Adjt. 4th. Infantry, Post Adjutant.

(Endorsed:) In the dist. court of the 2nd jud. dist. of Wash. Terr'y, at Vancouver. The Corporation of the Catholic Bishop of Nesqually, plaintiff, *vs.* The United States *et als.*, defendants. Defendants' Documentary Evidence, Exhibit "L." W. Byron Daniels, referee.

874 UNITED STATES OF AMERICA,
WAR DEPARTMENT,
WASHINGTON CITY, *March 3rd*, 1887.

Pursuant to section 882, of the Revised Statutes, I hereby certify that it appears from the records of the adjutant general's office, that the annexed document is a true copy of the original on file.

R. C. DRUM.
Adjutant General.

Be it known that Richard C. Drum, who signed the foregoing certificate, is the adjutant general of the Army of the United States, and that to his attestation as such, full faith and credit a re and ought to be given.

In witness whereof, I have hereunto set my hand and caused the seal of the War Department to be affixed, on this 4th.
[SEAL.] day of March, one thousand eight hundred and eighty-seven.

WM. C. ENDICOTT,
Secretary of War.

DEPARTMENT OF STATE,
WASHINGTON, *24th Nov'r*, 1869.

To the Honorable William W. Belknap, Secretary of War.

SIR:—I have the honor to acknowledge the receipt of your letter of the 12th. instant in relation to the suspension of acting at the instance of this department, upon certain claims of the Roman Catholic mission of St. James, Oregon, to the use and occupation of lands at Fort Vancouver, claimed by the Hudson's Bay Company,
875 until such claim of said company shall have been adjudicated by the joint commission. I have to inform you in reply that as the claim of the Hudson's Bay Company in the premises has now been adjudicated by the commission which has just closed its labors, no further objection exists so far as this department is informed, to the consideration of the War Department of the claim of St. James mission above referred to.

A copy of your letter will be transmitted to the Hon. Caleb Cushing, with a view to acquaint you with the decision of the commission upon the claim in question.

I have the honor to be, sir, your obedient servant,
HAMILTON FISH.

(Endorsed:) In the district court of the 2nd judicial district of Washington Territory, at Vancouver. The Corporation of the Catholic Bishop of Nesqually, plaintiff, *vs.* The United States *et als.*, defendants. Defendants' Docupemtary Evidence, Exhibit "M." W. Byron Daniels, referee.

E, 25004, 1887.

N. F. J. M. R. A. J. A. P.

DEPARTMENT OF THE INTERIOR,
GENERAL LAND OFFICE,
WASHINGTON, D. C., *March 12th*, 1887.

I, Wm. A. J. Sparks, Commissioner of the General Land Office, do hereby certify that the annexed copy of executive order, dated January 15, 1878, confirming the military reservation at Fort
876 Vancouver, (now Vancouver barracks,) Washington Territory, and copies of papers and maps mentioned in the order as "A and A," "B and B," "C, D and D," are true and literal exemplifications of the original of said order on file in this office and

of the maps and papers accompanying the order also on file in this office.

In testimony whereof I have hereunto subscribed my name and caused the seal of this office to be affixed, at the city of Washington, on the day and year above written.

[SEAL.] WM. A. J. SPARKS,
Commissioner of General Land Office.

WAR DEPARTMENT,
WASHINGTON CITY, *January 15th*, 1878.

To the President.

SIR: I have the honor to submit the following statement and recommendation respecting the United States military reservation at the post of Fort Vancouver, Washington Territory.

The post was established May 15th, 1849, and was first designated "Columbia barracks, "Oregon Territory." The name was changed to Fort Vancouver, July 13th, 1853.

On the 1st of October, 1850, Brevet Colonel W. W. Loring, lieutenant colonel, regiment mounted riflemen, commanding the 11th military department, declared a military reservation at the
877 post of about four miles square, map and description of which are herewith, marked "A and A."

To meet the provisions of the act of Congress approved February 14th, 1853, the reservation was reduced under instructions of the Secretary of War to the commanding general division of the Pacific, dated October 29th, 1853, to an area of six hundred and forty acres (640), a map and description of the survey, made in accordance with the Secretary's instructions, being forwarded to this department by General Wool, commanding department of the Pacific in letter of March 15th, 1854. The reservation as reduced was also announced in orders from post headquarters, *vide* map and papers enclosed, marked "B and B."

Another survey of the reservation was made in 1859, by officer of engineers, under direction of General Harney and plat thereof filed in the engineer department, copy of which is enclosed, marked "C;" it further appears that still another survey was made by officer of the General Land Office in 1860.

In 1874, a careful survey of the reserve was made by Lieut. Ward, 1st cavalry, under direction of General Davis, the department commander, and as the other surveys differed in some respects, from each other and from Lieut. Ward's survey, the latter was after due consideration, adopted by the department, July 15th, 1875, as establishing the boundaries of the reservation.

Map and description, according to Lieut. Ward's survey, are herewith marked "D and D."

878 It is respectfully recommended that the action herein recited be confirmed by the Executive and the existing reservation at Fort Vancouver, according to the survey of Lieut. Ward, duly declared as set apart for military purposes, to the end that proper note may be made in the General Land Office.

I have the honor to be sir, with great respect, your obedient servant,

GEO. W. McCRARY,
Secretary of War.

1st endorsement.

EXECUTIVE MANSION, WASHINGTON, *January 15th*, 1878.

The within recommendation of the Secretary of War is approved, and the Secretary of the Interior will cause the proper notation to be made in the General Land Office.

R. B. HAYES.

248, L, 1850.

HEADQUARTERS 11TH MILITARY DEPARTMENT,
COLUMBIA BARRACKS, O. T., *November 20th*, 1850.

GENERAL: I have the honor to transmit herewith, a map of the military reservation as surveyed and established at this point, subject to the claims of the Hudson's Bay Company, as guarenteed under treaty.

I am, sir, very respectfully, your obedient servant,

(S'd) W. W. LORING,
Lt. Col. R. M. R., Bvt. Col. U. S. A.,
Com'd'g 11th Mil. Dep't.

Bvt. Major General R. Jones, adjutant general U. S. Army, Washington city.

879 NOTE.—The map forwarded in Col. Loring's letter of November 20, 1850, enclosure 2, cannot be found.

The following copy of correspondence, however, appears fully to identify the *May* forwarded December 30, 1850, by General Persifor F. Smith, commanding Pacific division (copy herewith, marked "A"), as descriptive of the reservation established by Colonel Loring.

(Here follows map marked p. 879*a*.)

Adjutant general's office, January 12, 1878.

689, S, 1850.

HEADQUARTERS PACIFIC DIVISION,
SONOMA, *December* 30, 1850.

Bvt. Major General R. Jones, adjutant general, Washington.

SIR: I have the honor to transmit herewith, for the information of the department, * * *

I also enclose herewith, a map of the Government reserve at Vancouver, Oregon.

Very respectfully, your obedient servant,

(S'd) PERSIFOR F. SMITH,
Bvt. Maj. Gen'l Com'd'g D'n.

(See detached copy of map marked A.)

WAR DEPARTMENT, *August 8th*, 1851.

Brevet Brig. Gen'l E. A. Hitchcock, commanding Pacific division, Sonoma, California.

SIR: Petitions have been received at this department from citizens of Vancouver, Oregon, stating that the military authori-
880 ties at the fort have laid off a military reserve adjacent thereto four miles square, and including the county seat with sundry improvements belonging to an individual. It is not known at this department, how far these representations are correct; the only information on file respecting the reserve, appears to be a map copied by Lieut. R. S. Williamson, from the original drawn by Lieut. James Stuart, from which, having no scale attached, its extent cannot be ascertained. It appears, however, to include the "Hudson Bay picket," and "Hudson Bay village," besides some cleared and cultivated lands.

Very respectfully, your ob't serv't,

(S'd) WILL A. GRAHAM,
Act'g Secretary of War.

Extract.

HEADQUARTERS PACIFIC DIVISION,
SAN FRANCISCO, *March* 30, 1853.

182, H, 1853.

SIR: I enclose herewith, an extract from Lieut. Colonel Bonnevill's letter of February 23rd., recommending that the military reserve at Columbia barracks be declared. I respectfully submit that a compliance with the recommendation in the manner suggested would at once put a stop to all difficulties such as are referred to in my letter on this subject of November 10th, 1852.

* * * * * * *

881 As an additional reason for making the reservation, I will observe that by some recent proceedings of the legislative body in Oregon, an attempt has been made, or is contemplated, to take possession of a portion of the reservation for a county site, in disregard of both the rights of the army and the Hudson Bay Company, under the treaty, care should be taken to make the reservation subject to the rights of the Hudson Bay Company.

A copy of the map of the reserve was forwarded from these headquarters, December 30th, 1850, and its receipt was acknowledged February 24th, 1851; but as it does not appear that a description of the limits was sent at the same time, I enclose a copy herewith.

I am sir, very respectfully, your obdt. servt.,

(Sd.) E. A. HITCHCOCK,
Col. 2nd. Inf., Bvt. B. Genl. Comd'g.

Col. C. Cooper, adjutant general, U. S. Army, city of Washington, D. C.

NOTE.—Enclosure 2, the description of the reserve, of which map

was forwarded December 30, 1850, is copy of Col. Loring's proclamation of October 1, 1850.

Adjutant general's office, January 12th, 1878.

882 Copy.

Headquarters department of the Columbia, engineer office.

PORTLAND, OREGON, *April 19th*, 1875.

Major H. Clay Wood, ass't adj't gen'l, dep't of the Columbia, Portland, Oregon.

MAJOR: In compliance with request contained in communication dated h'dq'rs dep't of the Columbia, March 19th, 1875, I have the honor to furnish the necessary data, to enable the department commander to issue a general order announcing the limits of the Vancouver military reservation. These data differ from those given in the enclosures refereed to me, and also from those of the General Land Office. When the resurvey of this reservation was made, (April and May 1874,) by me, the original northeast and northwest corner posts were still in position, as was also an original line post near the southwest corner. The lines were run with extreme care, in accordance with the landmarks above mentioned. After completing the resurvey, the original northeast and northwest corner posts being very rotten, they were taken out and stone posts put exactly in their places by myself.

The boundaries of the reserve are as follows: Beginning at the southwest corner of the reservation, which corner is situated in section No. 27, township No. 2, north, range No. 1, east, Willa-
883 mette meridian, and on the water line of the Columbia river, at a point from which a square cedar post six feet high, marked "U. S." and a large cottonwood tree, blazed and marked "U. S." both bear north 22 degrees, 43 minutes 30 seconds east; thence north 22 degrees 43 minutes and 30 seconds east, 116.73 chains to a stone post marked "U. S." the northwest corner; thence south 72 degrees 51 minutes 30 seconds east, 54.46 chains to a stone post marked "U. S." the northeast corner, thence south 22 degrees, 43 minutes, 30 seconds west, 119.60 chains to the southeast corner, on the water line of the Columbia river; thence along the water line to the place of beginning; the whole containing 640 acres.

All the land within this reservation laying east of a line running parallel to its eastern boundary, and intersecting its northern boundary 14.95½ chains from the northeast corner has been set apart for use as an ordnance depot. The area of this piece is 166 acres.

* * * * * * *

I am, Major, very respectfully, your ob'd't serv't.

(S'd) F. R. WARD,

2nd. Lieut. 1st. Cav'y. Act'g Eng'r Officer.

(Here follows map marked p. 883½.)

(Endorsed:) In the district court of the 2nd judicial district of Washington Territory, at Vancouver. The Corporation of the Catholic Bishop of Nesqually, plaintiff, *vs.* The United States *et als.*, defendants. Defendants' Documentary Evidence, Exhibit "N." W. Byron Daniels, referee.

884 904, C. War Dept.

UNITED STATES OF AMERICA,
WAR DEPARTMENT,
WASHINGTON CITY, *February 28th*, 1888.

Pursuant to section 882, of the Revised Statutes, I hereby certify that it appears from the records of the quartermaster general's office, that the annexed are true copies of the original papers now on file.

S. B. HOLABIRD,
Q. M. General U. S. A.

Be it known that S. B. Holabird, who signed the foregoing certificate, is the quartermaster general of the Army of the United States, and that to his attestation as such, full faith and credit are and ought to be given.

In witness whereof I have hereunto set my hand, and caused the seal of the War Department to be affixed, on this twenty-
[SEAL.] eighth day of February, one thousand eight hundred and eighty-eight.

WM. C. ENDICOTT,
Secretary of War.

OFFICE OF ASS'T QUAR'MASTER,
DEPARTMENT OF OREGON,
FORT VANCOUVER, W. TER., *January* 15, 1859.

GENERAL: I have observed in a recent issue of the New York Express, that Bishop A. M. Blanchet of the diocese of Nesqually, W. Ter., now residing at Vancouver, has addressed a letter to the President of the United States, a copy of which appeared in Freeman's Journal of last December the 4th. in which letter the bishop assumed that the lands in this vicinity belong to the Mission of St.
885 James, and stated that this mission is suffering from the arbitrary encroachments of the military authorities at this station.

Having served here many years, and having been familiar with all important events that havd transpired in connection with the occupation and settlement of Vancouver, I should be recreant to duty did I not report the facts to you, so far as this mission claim is concerned, in order that timely and proper steps may be taken to prevent the consum-ation of as subtle and nefarious a scheme of avariciousness as has of late years been attempted to be executed. The reverend bishop foresaw it would be far more politic to excite a powerful Catholic influence and sympathy near Washington city, by a recital of imaginary grievances than to undertake the redress of any real ones before the courts here in Washington Ter.

I have the honor to submit the enclosed documents bearing on

the case, to which I will refer; and also to state the following facts:— The Hudson's Bay Company under a trading license, for a term of years from the British government (the license expires this year) occupied this place in 1824, while the convention of October 20th, 1818 was in force, and that company has been in constant and uninterrupted occupation since that date, of all the lands here, except those surrendered to the U. S. military post which was established here in May 1849. The rights of the company are now protected by article 3rd. of the treaty of Washington of the 15th. June, 1846,
as the time of the passage of the act establishing the Ter-
886 ritorial government of Oregon on the 14th. of August, 1848,
the Hudson's Bay Company actually occupied and cultivated the lands for miles in and near Vancouver. The present mission building and grounds were owned and occupied by that company. The mission claims under the second proviso of section 1st. of the act referred to above, at that date the mission, as such, was not really in existence. It assumed form and tangible existence only in 1853, and created no improvements of value until after 1856, and then only by the permission and under the protection of the military authorities here, against whom the reverend bishop is so cruelly unjust.

For a long time prior and subsequent to the passage of the act, under which the mission claim land here, it had no mission. The Hudson's Bay Company built a church and hired a chaplain for the benefit of its servants in past years. The books of the company show that this building is still its property.

The chaplain was always until after my arrival, lodged and fed by the company inside of its stockade. Let me assure you that it is upon the strength of this very church building owned by the Hudson's Bay Company, and this same chaplaincy supported by the company, that Bishop Blanchet now very modestly and coolly is attempting to clutch the whole of Vancouver, by a stroke of Jesuitical filibusterism. The very fence, which was ordered to be removed and about which the bishop inveighed so warmly, is
887 mostly the identical one that was put up years ago by the
Hudson's Bay Company around some of its enclosures, and which fence as well as the church building and adjacent grounds, have never been surrendered to this mission, notwithstanding the reverend bishop states to the contrary in his letter to the President. The truth is, that the mission has simply squat down on, and gradually taken possession of those premises without any authority or permission from the Hudson's Bay Company. I suspect the bishop assumed this error along — others noticed in this letter. However, it will be plain to every one I trust when I assure you that the Hudson's Bay Company itself will deny and refute the bishop's statements. Whatever of permission it had to make the improvements it now has, was granted, from motives of kindness by Col. Bonneville, in 1853 and later, to enable the mission to establish schools, under his auspices the mission made its first enclosures. In 1850 I rented this church building of the company. A part of it was occupied as quarters for an officer of the rifle regiment and the rent

for it was paid to the company; as against the company then, what claim, in law, or equity, has this mission?

But further, in May, 1849, the present military post and depot were established here with the consent and upon the invitation of the late Peter Skeen Ogden, at that time governor and chief factor in charge of the Hudson's Bay Company's interest in Oregon.

888 I was among the first who came here, and it was my particular duty to understand our rights and true position. I have in past time made many reports on this subject to my seniors in the department.

The post department and division commanders have also made early and frequent reports on the same subject to the proper bureaus. These reports can be found filed away no doubt, in the proper places. In none of them is the Catholic mission claim noticed, acknowledged, or entertained, so far as my knowledge extends. It was not set up until four years after the establishment of the post at this place, and not until after, under the auspices of a Catholic post commander, the priests were allowed many privileges, and were permitted to make improvements within certain defined limits which they now wish to extend.

It is fair to state here that even the post commander referred to "Col. Bonniville," did not acknowledge any right on the part of the mission to any lands here. What he granted was by way of favors, and of course his successors had the right to withdraw them when the public service required it.

It was the expressed intention on the part of subsequent post commander to, curtail the mission enclosures, authorized to be put up by Col. Bonniville, that made the bishop fly to the President and the press: The enclosures though, have not been meddled with.

He well knew there was no foundation for redress here by either civil or military law.

889 Before the post was established here and before any improvements were made by the U. S. I entered into a written agreement, as agent of the U. S. Government, with Governor Ogden, as agent of the Hudson Bay Company, to the effect that the U. S. troops should have the right to take post here, and to put up such improvements and occupy such vacant lands as might be deemed necessary, and that all such improvements should always remain subject to the orders of the proper officers of the U. S. Army. By virtue of this agreement Major I. S. Hathaway, late of the 1st artillery, then in command of a battalion, and the 11th military department, established the first military post and depot at this place, and took possession of all lands here not enclosed by the H. B. Co. where, since that date, May, 1849, we have been in constant occupation. Where the post has uniformly exercised supreme control within the limits of its reservation, excepting always, whatever rights the H. B. Co. may be decided to have, and where the U. S. Government has created improvements in the shape of quarters, barracks, hospital, wharf, stables, and storehouses to the value from first to last, of over $200,000. Thus the U. S. came into possession here. The Catholic mission has never sought to intermeddle with

us here. It never protested, it never claimed anything while these improvements were being made. But a town of importance sprang up here a year or two ago, which bids fair to be a posperous one. The post is now completed for six companies of troops, and there are valuable depot buildings; the license of the H. B. Company's expires the present year, hence the itching on the part of Bishop Blanchet to absorb the whole for the church. The
890 paper marked "A" is a sketch of this place. By a glance at it you cannot fail to see how very much the mission would like to fall heir to a spot that must always be of the highest importance in a military and commercial point of view. In 1853, having come to the determination to set up a claim to the lands here, Bishop Blanchet had it recorded in the surveyor general's office, thought that office under specific instructions from Washington, had not surveyed these lands, as they formed a portion of the possessory rights of the H. B. Co., and as such, were not subject to occupation and claim by this mission, see article 3rd. of the treaty, before referred to. Besides, the Indian title, if there was any, had not been extinguished as expected to be done by the first proviso of the act under which the mission lays its claim. Still the presumption and ingratitude on the part of the mission in setting up a claim at all to anything here, induced Governor Ogden to file a protest against such absurd pretensions in the office of the surveyor general. See paper herewith marked "B." As this reserve was not designed to interfere with the companie's rights, but declared a reservation for military uses subject to whatever rights the company may possess under the treaty affording the post here the use of all vacant lands, not wanted nor in use by the company, sufficient for all our purposes, and as it was presumed the entire place would fall to the reservation on a final settlement with the company, or when
891 it retired on the expiration of its trading license, the protest filed by Governor Ogden was supposed by the commanding officer to be sufficiently conclusive. But any attempt on the part of this mission ever to have exercised any of the rights of ownership, or to have extended its enclosures or improvements beyond the bounds allowed it as a favor by the commanding officer here, would always, from 1849 to this day, have been summarily checked; such is the position of the case now.

Col. W. W. Loring, of the rifles succeeded Major Hathaway in command here. On the 31st. of October, 1850, he declared a reserve here of 4 miles square by the order of the late General P. F. Smith, under directions from the War Department. Within the limits of Col. Loring's reservation, there were some private donation claims, none of which are in the present one. By the act of February 14th 1853, the lands that can be reserved for fortifications are limited to 640 acres. This reservation was thus reduced by orders from the War Department, of October 29th. 1853. See papers marked "C," "D," and "E." These are first, a letter from the Sec. of War to Genl. Hitchcock, then in command of the Pacific division, second, a letter from Gen. Hitchcock, to Col. Bonneville, then in command of this post; third, Col. Bonnevill's order announcing

the limits and boundaries of the reserve. Soon after announcing the present reserve, the col. ordered a board of officers to assemble,
and to examine and report upon the extent, condition and
892 probable value of all improvements contained within the
limits of the present military reservation at this post. See paper marked "F" and "G." This board discovered no improvements of the mission. The mission made no effort then to assert before this board legally instituted, that any existed, else the claim would have been weighed, assessed and reported upon. In 1850 when the present garrison was mostly erected, other parties than the mission brought a suit against Col. Loring, and myself for an injunction to stop our building here. The case was tried in the courts, and the judge gave a written opinion to the effect that the post had the right over the parties complaining, and was rightfully in possession.

The mission at that day was not in existence in any tangible form. If it had existence at all, it must have been a paper one simply. Most of the improvements which pertain to the mission have been created, with our consent, by Mr. Brouillett, the vicar general of the diocese. Since my return here in 1856, this gentleman has opened fine schools for the young of both sexes and has a hospital for the indigent sick. The post has interposed no objections to the creating of institutions so useful and charitable at this point, in a country so new and sparely settled, but no officer ever dreamed that this mission would put forth so preposterous a claim as the one in question. All parties would be willing that the mission may have what lands it now has enclosed, and they are ample for its legitimate
uses. There are lands and space enough here for the post,
893 mission, company and the town, if rightly divided and occupied. In conclusion, I very respectfully ask your early attention to this communication and beg you will refer ot to the President or War Dept. in order that this mission claim may undergo a fair and close investigation before any decision can be made on *ex parte* evidence. I would suggest that, competent, disinterested person or persons be appointed to investigate the situation of affairs here touching the mission claim, and also, the extent and character of the possessory rights of the H. B. Co. at this place. This should be done at an early day while there are many witnesses living here, who can testify to all material facts; for the satisfaction of all parties, and to afford increased prosperity and security to the settlers near here, an adjustment should be made. The reserve should be confirmed without delay. It is one of great value and importance to the military service as well as to the Government generally. I repeat the request that early action may be had in the premises.

I am sir, very respectfully, your obedient servant,

RUFUS INGALLS,
Captain A. Q. M.

Major Gen'l. Thomas S. Jesup, qr. master gen. U. S. A., Washington city, D. C.

(Endorsed:) 904, C. War Dep't. Received 345, Feb'y 21. Certificate of W. D. attached and marked "Inc. 1;" also —.

894 Respectfully submitted to the Secretary of War:

The Catholic mission has no just claim derived from Great Britain, nor from the Oregon treaty of 1846; and any claim which they may have under the laws of the United States, cannot interfere with establishments made by the United States, though I have no doubt they prove as citizens of the United States a fair claim to the lands they have enclosed with the buildings on them.

T. S. JESUP,
Quartermaster General.

May 22nd, 1859.

(Endorsed:) In the district court of the 2nd jud. dist. of Wash. Ter'y, at Vancouver. The Corporation of the Catholic Bishop of Nesqually, plaintiff, *vs.* The United States *et als.*, defendants. Defendants' Exhibit "O." Filed April 17th, 1888. W. Byron Daniels, referee.

1519. B. War Dep't., 3, 1888.

UNITED STATES OF AMERICA,
WAR DEPARTMENT,
WASHINGTON CITY, *March* —, 1888.

Pursuant to section 882, of the Revised Statutes, I hereby certify that it appears from the records of the War Department, that the annexed documents are true copies from records and papers on file.

JOHN TWEEDALE,
Chief Clerk.

895 Be it known that John Tweedale, who signed the foregoing certificate, is the chief clerk of the War Department, and that to his attestation as such full faith and credit are and ought to be given.

In witness whereof I have hereunto set my hand and caused the seal of the War Department to be affixed on this 24th day of March, one thousand eight hundred and eighty-eight.

[SEAL.] WM. C. ENDICOTT,
Secretary of War.

WAR DEPARTMENT, *February 17th*, 1877.

Hon. Allen C. Thurman, chairman of Committee on Private Land Claims, United States Senate.

SIR: In reply to the letter dated the 3rd instant from the Senate committee on private land claims, by its clerk, enclosing House bill 820 "for the relief of the Mission of St. James in Washington Territory," and requesting information relative to the case, I have the honor to inform you that the claim of the St. James mission embraces nearly the entire Fort Vancouver military reservation in Washington Territory, formerly Oregon Territory.

The first United States troops in Oregon were two companies ("L" and "M") of the 1st artillery. They sailed from New York city on the 10th of November, 1848, through the Straits of Magellan,
896 entering the Columbia river, Oregon, May 10th, 1849. On May 13th, 1849, Captain Hathaway 1st artillery, in an order dated Fort Vancouver, Oregon, assumed command of the 11th military district, and announced 2d Lieut. James B. Fry, 1st artillery, as acting assistant adjutant general of the department.

The War Department holds that the so-called Mission of St. James was not a "missionary station" at the date of the passage of the act of August 14th, 1848, as the following extracts from letters on file in this department will show:

General James B. Fry, assistant adjutant general United States Army, now stationed in New York city, and who was then 2d lieutenant of Company "L," 1st artillery and acting assistant adjutant general of the 11th military department, says:

"There were no troops in Oregon when we arrived there, nor had there been any previous to that time. We proceeded in our vessel to Fort Vancouver, and went into camp at that place on the ridge just behind the enclosure in which the dwellings, stores, &c., of the Hudson Bay Company were situated. During the summer our command built, of logs, quarters enough—with a building belonging to the Hudson Bay Company which they let us use, to protect ourselves during the following winter. * * * "Mr. Ogden being at that time chief factor of the company and residing at Fort Vancouver. * * * I do not remember the St. James Catholic mission, nor do I recall ever having heard of any claim other
897 than that of the Hudson Bay Company, to any of the land at Vancouver. I recall, however, the fact that there was a Catholic church and priest there. I understood that they were a part of the Hudson Bay Company, and so far as I could see, they were under its protection and control, as pretty much everything else there was." Col. I. N. Palmer, 2d cavalry, states, "In May, 1849, I was lieutenant in the regiment of mounted riflemen, commanded by Col. W. W. Loring. The regiment left Fort Leavenworth on the 10th May, 1849, and proceeded to Oregon." * * * "The rifle regiment composed the command of Col. Loring until our arrival in Oregon when the two companies of the 1st artillery already in Oregon, were added to his command and the command was designated as the 11th military department. I was stationed at Fort Vancouver from March, 1850, until May, 1851. I was well acquainted with Mr. Peter Skeen Ogden who was chief factor and the officer in charge of the trading post of Vancouver and I was also a regular visitor at room inside of the company's stockade of Father Deleveau, the priest who was employed by the Hudson Bay Company to attend the religious instruction of such of the employees of the company as were of the Roman Catholic faith. Father Deleveau was furnished with quarters and had his rations from the Hudson Bay Company. The little chapel used by the company for the Roman Catholic service was outside the stockade. I never heard while I was at Vancouver of such a mission as the St. James, and I never heard that any

religious society claimed any of the land of the Hudson Bay
898 Company until after the time came for the United States to take charge of all the property of the company, as had been agreed upon in treaty stipulations, and the claim of the St. James mission, I consider a most impudent one." Captain Rufus Ingalls assistant quartermaster (now col. and assistant quartermaster general), in a communication dated Fort Vancouver, Washington Territory, January 15, 1859 to the quartermaster general, says: * * * "At the time of the passage of the act establishing the Territorial government of Oregon on the 14th of August, 1848, the Hudson's Bay Company actually occupied and cultivated the lands for miles in and near Vancouver." "The present mission building and grounds were owned and occupied by that company."

"The mission claims under the second proviso of section 1st of the act referred to above. At that date the mission, as such, was not really in existence." "It assumed form and tangible existence only in 1853, and created no improvements of value until after 1856, and then only by permission and under the protection of the military authorities here." * * *

"For a long time prior and subsequent to the passage of the act under which the mission claims lands here it had no mission." "The Hudson Bay Company built a church and hired a chaplain for the benefit of its servants in past years." "The books of the company show that this building is still its property" (1859).
899 "The chaplain was always until after my arrival, lodged and fed by the company inside of its stockade."

* * * * * * *

"In 1850 I rented this church building of the company. A part of it was occupied as quarters for an officer of the rifle regiment and the rent for it was paid to the company." * * * "I was amont the first who came here, and it was my particular duty to understand our rights and true position."

* * * * * * *

"Before the post was established here and before any improvements were made by the United States I entered into a written agreement as agent of the United States Government, with Governor Ogden as agent of the Hudson's Bay Company, to the effect that the United States troops should have the right to take post here, and to put up such improvements and occupy such vacant lands as might be deemed necessary, and that all such improve-ents should always remain subject to the orders of the proper officers of the United States Army."

In his letter dated Fort Vancouver, W. T. September 23, 1857, to Dugald McTavish, chief factor Hudson Bay Company, Captain Ingalls says the agreement was entered into "early in June 1849," and "was made in duplicate, Mr. Ogden keeping one copy, the other was deposited in my office and left with my successor. On my return I fail to find it here." There are witnesses however in abundance to the agreement, so it matters little whether it be found or not."
900 Captain Ingalls continues in his letter of January 15th, 1859, above referred to: "By virtue of this agreement, Major J. S.

Hathaway, late of the 1st artillery, then in command of a battalion, and the 11th military department, established the first military post and depot at this place and took possession of all lands here not enclosed by the Hudson's Bay Company, where since that date May, 1849, we have been in constant occupation."

"Thus the United States came into possession here."

"The Catholic mission has never sought to intermeddle with us here." "It never protested, never claimed anything while these improvements were being made."

* * * * * * *

"In 1853, having come to the determination to set up a claim to the lands here, Bishop Blanchet has it recorded in the surveyor general's office, though that office under specific instructions from Washington, had not surveyed these lands as they formed a portion of the possessory rights of the Hudson's Bay Company, and as such were not subject to occupation and claim by this mission; see article 3, of the treaty before referred to, besides the Indian title, if there was any had not been extinguished as expected to be done by the first proviso of the act under which the mission lays its claim."

* * *

"Colonel W. W. Loring of the rifles succeeded Major Hathaway in command here. On the 31st of October 1850, he declared a reserve here of four miles square by order of the late General P. F. Smith, under direction of the War Department."

901 * * * "By the act of February 14th, 1853, the lands that can be reserved for fortifications are limited to 640 acres." "This reservation was thus reduced by orders from the War Department of October 29th, 1853; soon after announcing the present reserve, the colonel" (Bonneville) "ordered a board of officers to assemble and to examine and report upon the extent, condition and probable value of all the improvements contained within the limits of the present military reservation." "This board discovered no improvements of the mission. The mission made no effort then to assert before this board legally instituted, that any existed, else the claim would have been weighed, assessed and reported upon." In 1850, when the present garrison was mostly erected other parties than the mission brought a suit against Col. Loring, and myself for an injunction to stop our building here." "The case was tried in the courts and the judge gave a written opinion to the effect that the post had the right over the parties complaining and was rightfully in possession." "The mission at that day was not in existence in any tangible form; if it had existence at all, it must have been a paper one simply." Lieutenant Colonel T. Morris, 4th infantry, com'd'g post of Fort Vancouver, W. T., in a letter dated January 20th, 1859, addressed to the adjutant general, says: * * * "When the Hudson's Bay Company at this place was in charge of Dr. McLaughlin, chief factor of the company, he, for the benefit of the Canadian employees of the company, employed a Roman

902 Catholic priest to perform divine service, for the which service £100 per annum was paid." This priest was carried on the books of the company as chaplain and resided inside of the

pickets of the Hudson Bay Company, and when the U. S. Government first located a reserve at this post (1849) the priest was thus employed, and thus resided, and was the only minister of that religion residing here." "A short time after this, this same priest was removed and there was for a time no one who performed the duties of chaplain." "After this interval, came another priest who continued the duties of his predecessor, and was paid as chaplain by the Hudson Bay Company." "A building was also furnished by the company for a church and this building is the one now used by the pretended mission as their church, and is one of the buildings they class under the head of improvements." "This very same building was at one time rented by the quartermaster's department, at this post, of the Hudson Bay Company, and an officer of our army resided in it, and it is really the property of the Hudson Bay Company at this day." "It was not until 1853 some four years after the reserve had been proclaimed, that this pretended mission perceiving that this place would be one of importance, and that Government had already expended a large amount of money on it and would in all probability expend much more, recorded its title to the land, hoping no doubt that, if by any accident they should come into possession of it, 'would be the means of enriching themselves, as Government would be obliged to give them their
903 own price after having gone to the expense great expense, of putting up quarters, storehouses, wharf, &c., &c., for the accommodation of the soldiers and protection of the supplies." * * *

When the claim of the St. James mission was first set up (1853) Peter Skeen Ogden, chief factor of the Hudson Bay Company on the part of said company notified the surveyor general of Oregon on the 23rd of May, 1853, that no such mission ever existed at Fort Vancouver; that the Catholic church there was sustained in part by the Hudson Bay Company for their servants adding: "Its clergy have resided here at the sufference only and by the permission of the company and have always been paid by the company five hundred dollars per annum." "The idea of its being a missionary station is as novel as it is absurd, and has never been entertained, in my belief by the claimants even until the filing of the notice." Referring to the church and priests' house, he says, "These buildings belong to the Hudson's Bay Company and have always been their property."

Lord Lyons, the British minister accredited to this Government, in a letter addressed to the Secretary of State (enclosed in letter of the Secretary of State to the Secretary of War, dated May 19th 1859) dated May 13th. 1859, says:

"The unfounded character of this claim appears from documents of which copies have been laid before her majesty's government, * * * "her majesty's government are confident that the Government of the United States will give no countenance to this unreasonable pretention on the part of the Roman Catholic mission."

I enclose copies of affidavits on file in this department of
904 John T. Lovelace, Nichilas Bateman, Michael A. Tubb, and G. T. McConnell, all of whom were living at Fort Vancouver

in 1849 except Tubb, who went there in 1852. The affiants deny the existence of the mission at the time of the establishment of the military post in 1849, and allege that the mission first asserted its claim in 1854. It will be seen from McConnell's affidavit that the mission had a claim some four hundred miles from Fort Vancouver, and that the claim was once pointed out to him.

These statements show when the reservation was first made, when reduced, and it is believed that they establish the fact that the so-called mission of St. James had no existence at the time of the establishment of the military reservation at Fort Vancouver. Search has been made for the decision of the cou-t in 1850, to which General Ingalls refers; but as it was probably a decision of the district court, it is not found in the law library of Congress. General Howard, commanding department of the Columbia, has therefore been requested to forward a copy immediately.

The land in question was covered by the possessory rights of the Hudson's Bay Company, guaranteed to it by the 3rd art. of the treaty with Great Britain of June 15, 1846. (See Revised Statutes, volume 2, p. 320.) So long as these possessory rights continued it is presumed that no other title could attach to the lands without the consent of the company. Consent is shown in favor of the United States military reservation by written agreement of June, 1849. (See General Ingalls' statement.) Consent in favor of the mission is not alleged; in fact it was not a missionary station. (See the statement of Peter Skeen Ogden, quoted above.) The mis-
905 sion could acquire no titie to the land claimed under section 1 of the act of August 14, 1848, (9 Stat., p. 323), as the land could not then be occupied as missionary station among the Indian "tribes," being at the time, before and since in the possession of the Hudson Bay Company as a trading post. The title of that company was extinguished under article 1 of the treaty of Great Britain of July 1, 1863, (Rev. Stat., vol. 2, p. 346), and the Hudson's Bay Company awarded (Sept. 10, 1869), $450,000 for their possessory rights and claims. (See Rev. Stat., vol. 2, p. 348.)

In addition to the extracts and papers submitted I would invite attention to the opinion of Attorney General Cushing, dated October 15, 1853, (vl. opinion 157), in which he desides that the military reservation at Fort Vancouver is a valid reservation, also to the opinion of the supreme court in the case of Lounsdale *et al.*, *vs.* Parrish (21 Howard 290) that "Congress passed no law in any wise affecting the title to land in Oregon till September 27th, 1850." In reply to the inquiry of the committee, I would state that the records of the War Department do not show that any protest on the part of the St. James mission was made when the military reservation was established, either to the occupation of the ground or the buildings on the same, and no claim appears to have been made to the ground by the mission before 1853.

The records of the British and American joint commission claim on file in the Department of State would probably show that the value of the church and other buildings referred to as also the land

was taken into consideration when the award to the Hudson
906 Bay Company was made, for when the matter was under consideration before the commission the counsel on the part of the company protested (March 26, 1865) against any concession to the St. James mission adding: "a part of the claim of the company as you are doubtless aware, is to the land at, and around Fort Vancouver, embracing the whole of the adverse claim set up by the church."

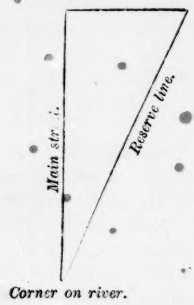
I have the honor to suggest that the voluminous papers in the case on file in this department and in the General Land Office may be considered prior to a determination of the case.

Very respectfully, your obedient servant,

J. D. CAMERON,
Secretary of War.

(Here follows diagram marked 906*a*.)

I, John T. Lovelace, do solemnly swear that I came to this place, Fort Vancouver, in the winter of 1849. I was here at the time the lines of the military reserve were run by Col. Bonneville, and, I think, the fall of 1853 or spring of 1854. I never heard that the priests here or any one for them claimed the land now claimed by them as a mission. I was intimate with all of them, and if they had claimed it I would have heard of it. During the spring of 1850 a portion of the buildings were used by the U. S. quartermaster. I mean the buildings they now occupy as the mission. They were rented by the quartermaster of the Hudson Bay Company. The first I knew of the Catholic mission J. B. A. Brouillett put a fence in 1854 on the west boundary of the reserve and east boundary of street and extended back about 1,400 feet in this form:



907 The fence was not on the reserve. I went there to see it expressly. I am positive the lines of the military reserve were run before any claim was set up by the priests to this land.

JOHN T. LOVELACE.

Subscribed and sworn to before me this Dec. 21st, 1869.

ALLECK C. SMITH,
City Recorder, &c.

I, Nicholas Bateman, do solemnly swear that I came to this place in 1849, and that all the matters sworn to by John T. Lovelace are true to my own knowledge. I was well acquainted with all the priests then here, and I never knew or heard of any claim to the land being made by them until 1854, after the reserve lines were run.

NICHOLAS BATEMAN.

Subscribed and sworn to before me this Dec. 21st, 1869.

ALLECK C. SMITH,
Recorder of Vancouver City.

TERRITORY OF WASHINGTON, }
County of Clarke. }

I hereby certify that the above-named Alleck C. Smith is the duly elected and qualified recorder of the city of Vancouver and *ex officio* justice of the peace.

LEVI FARNSWORTH,
[SEAL.] *County Auditor, Clarke County.*

I, Michael A. Tubb, do solemnly swear that I came to Fort Vancouver, W. T., in 1852; that I was living with my sister, Mrs. Fields, one of the contestants. I saw them surveying the reserve lines in the fall of 1854—I mean Col. Bonneville. The
908 summer after the survey was made the Catholic priests for the first time claimed the land. I am positive that the priests laid no claim to the land until after the reserve lines were run, particularly as I lived with my sister, Mrs. Field, and I was assisting her to get her land. She had her lines run before Col. Bonneville surveyed the reserve, and we would have run the lines so as to include the church, but that was property belonging to the Hudson Bay Company.

M. A. TUBB.

Subscribed and sworn to before me this Dec. 21st, 1869.

ALLECK C. SMITH,
Recorder, Vancouver City, W. T.

I, G. T. McConnell, clerk of the district court, 2nd judicial district, holding terms at Vancouver, W. T., do solemnly swear that I came to this place in 1849. The reserve of Fort Vancouver was surveyed in 1854 by Col. Bonneville. I never heard that the Catholic mission had a claim or laid claim to any land until after the survey of the reserve by Bonneville at Vancouver. I did understand they had a claim some four miles below; it was once pointed out to me.

G. T. McCONNELL,
Clerk U. S. District Court.

Subscribed and sworn to before me this Dec. 21st, 1869.
In testimony whereof I have hereunto set my hand and seal.

[SEAL.] LEVI FARNSWORTH,
Auditor Clarke Co., Washington Territory.

909 HEADQUARTERS DEPARTMENT OF THE COLUMBIA,
PORTLAND, OREGON, *Febr-yaru 12th*, 1877.

To the honorable, the Secretary of War, Washington, D. C.

SIR: In obedience to your telegraphic instructions of the 10th instant, I have the honor to forward enclosed copy of a decision by Associate Justice William Strong (now residing in this city), in the case The Probate Court of Clarke County, plaintiffs, *vs.* Rufus Ingalls and W. W. Loring, defendants,—bill in equity. This case was heard and decided at Vancouver, in the district court, 2nd judicial district, Oregon Territory, (now Washington Territory) in the latter part of the year 1850.

Judge Strong in his letter of transmittal, remarks:

"I remember the case well, no question was at that time made before me as to any claim on the part of the Catholics nor indeed did I until long after that date, hear of any such claim."

This enclosure is certified by Judge Strong this date.

I am, sir, very respectfully, your obedient servant,

O. O. HOWARD,
Brigadier General Commanding.

In the District Court of the 2nd Judicial District, Oregon Territory.

THE PROBATE COURT OF CLARKE COUNTY, Plaintiffs,
vs.
RUFUS INGALLS and W. W. LORING, Defendants.
} Bill in Equity.

910 This is an application, founded upon a bill in equity, to obtain an injunction against the defendants, restraining them from enclosing or building upon the land described in the bill.

The plaintiff claims that it represents the county of Clarke and that said county is entitled to one hundred and sixty acres of land, to be selected by the county authorities from the public lands in the county, to be held in trust for county purposes; that the land described in the complaint, which is upon the military reserve or what is claimed as a military reserve by the defendants, has been selected by the county under an act of the late provisional government of the Territory.

The act of Congress under which this claim is made is entitled "An act granting to the counties or parishes of each State or Territory of the United States in which the public lands are situated the right of pre-emption to quarter sections of land for seats of justice within the same." Approved May 26th, 1824.

It is averred that the defendant Loring, who is in command of the United States troops at this post, has given the county notice that he claims, on behalf of the United States, four square miles, including the lands described in the bill, as a military reservation; and that the defendant Ingalls, who is acting quartermaster at the post, has improved and is improving the land selected for county purposes and threatens to make large enclosures thereon, denying the right of the county and claiming rights, as is believed, under the location as a military reserve. Without stopping to enquire

whether sufficient is shown by the allegations in the bill to
911 justify the court in granting an injunction on account of the acts done or threatened I will proceed to consider the title under which plaintiffs claim. The act of 1824 seems to refer to States or Territories then existing, but if this point is waived it gives the power of selecting and locating and purchasing by pre-emption a quarter section of land (which is a legal subdivision) in those counties or parishes where there are public lands for sale. It is necessarily implied that there shall be lands open to pre-emption—*i. e.*, surveyed and in the market.

This court judicially knows that there are at present no such lands in this Territory. There has been no law passed authorizing surveys and it is impossible now to determine whether any one hundred and sixty acres now selected would fall within any particular quarter section after the lands are surveyed. In fact, it would be a miracle if it did.

I am of the opinion, therefore, that at present, whatever may be possible in the future, the county can acquire no rights as against the military authorities to the land in question by selecting it as a location for the county seat, and the application for an injunction must be refused.

(S'g'd) WM. STRONG,
Associate Justice of Supreme Court, Oregon Territory, Judge.

The above decision was rendered before me in the fall of 1850, when holding the office of associate justice, &c., Oregon Territory.
WM. STRONG.

Portland, Oregon, Feb. 12, 1877.

912 WAR DEPARTMENT,
WASHINGTON CITY, *Febryary 27th*, 1877.

SIR: I have the honor to transmit herewith, a copy of a letter of the 12th instant from General O. O. Howard, to accompany War Department letter of the 17th instant, on the subject of the St. James mission, in which the enclosed decision of Judge Strong is referred to.

Very respectfully, your obedient servant,
J. D. CAMERON,
Secretary of War.

Hon. A. G. Thurman, chairman com'e on private land claims, U. S. Senate.

(Endorsed:) In the district court, 2nd judicial district of W. T., at Vancouver. The Corporation of the Catholic Bishop of Nesqually, plaintiff, *vs.* The United States *et als.*, defendants. Defendants' Exhibit "P." Filed April 17th, 1888. W. Byron Daniels, referee. Filed November 12th, 1888. A. Reeves Ayres, clerk, by W. F. Johnson, deputy.

The end of vol. 8.

909 HEADQUARTERS DEPARTMENT OF THE COLUMBIA,
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Judge Strong in his letter of transmittal, remarks:

"I remember the case well, no question was at that time made before me as to any claim on the part of the Catholics nor indeed did I until long after that date, hear of any such claim."

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Brigadier General Commanding.

In the District Court of the 2nd Judicial District, Oregon Territory.

THE PROBATE COURT OF CLARKE COUNTY, Plaintiffs,
vs.
RUFUS INGALLS and W. W. LORING, Defendants.
} Bill in Equity.

910 This is an application, founded upon a bill in equity, to obtain an injunction against the defendants, restraining them from enclosing or building upon the land described in the bill.

The plaintiff claims that it represents the county of Clarke and that said county is entitled to one hundred and sixty acres of land, to be selected by the county authorities from the public lands in the county, to be held in trust for county purposes; that the land described in the complaint, which is upon the military reserve or what is claimed as a military reserve by the defendants, has been selected by the county under an act of the late provisional government of the Territory.

The act of Congress under which this claim is made is entitled "An act granting to the counties or parishes of each State or Territory of the United States in which the public lands are situated the right of pre-emption to quarter sections of land for seats of justice within the same." Approved May 26th, 1824.

It is averred that the defendant Loring, who is in command of the United States troops at this post, has given the county notice that he claims, on behalf of the United States, four square miles, including the lands described in the bill, as a military reservation; and that the defendant Ingalls, who is acting quartermaster at the post, has improved and is improving the land selected for county purposes and threatens to make large enclosures thereon, denying the right of the county and claiming rights, as is believed, under the location as a military reserve. Without stopping to enquire

911 whether sufficient is shown by the allegations in the bill to justify the court in granting an injunction on account of the acts done or threatened I will proceed to consider the title under which plaintiffs claim. The act of 1824 seems to refer to States or Territories then existing, but if this point is waived it gives the power of selecting and locating and purchasing by pre-emption a quarter section of land (which is a legal subdivision) in those counties or parishes where there are public lands for sale. It is necessarily implied that there shall be lands open to pre-emption—*i. e.*, surveyed and in the market.

This court judicially knows that there are at present no such lands in this Territory. There has been no law passed authorizing surveys and it is impossible now to determine whether any one hundred and sixty acres now selected would fall within any particular quarter section after the lands are surveyed. In fact, it would be a miracle if it did.

I am of the opinion, therefore, that at present, whatever may be possible in the future, the county can acquire no rights as against the military authorities to the land in question by selecting it as a location for the county seat, and the application for an injunction must be refused.

(S'g'd) WM. STRONG,
Associate Justice of Supreme Court, Oregon Territory, Judge.

The above decision was rendered before me in the fall of 1850, when holding the office of associate justice, &c., Oregon Territory.

WM. STRONG.

Portland, Oregon, Feb. 12, 1877.

912 WAR DEPARTMENT,
WASHINGTON CITY, *February 27th*, 1877.

SIR: I have the honor to transmit herewith, a copy of a letter of the 12th instant from General O. O. Howard, to accompany War Department letter of the 17th instant, on the subject of the St. James mission, in which the enclosed decision of Judge Strong is referred to.

Very respectfully, your obedient servant,

J. D. CAMERON,
Secretary of War.

Hon. A. G. Thurman, chairman com'e on private land claims, U. S. Senate.

(Endorsed:) In the district court, 2nd judicial district of W. T., at Vancouver. The Corporation of the Catholic Bishop of Nesqually, plaintiff, *vs.* The United States *et als.*, defendants. Defendants' Exhibit "P." Filed April 17th, 1888. W. Byron Daniels, referee. Filed November 12th, 1888. A. Reeves Ayres, clerk, by W. F. Johnson, deputy.

The end of vol. 8.

909 HEADQUARTERS DEPARTMENT OF THE COLUMBIA,
PORTLAND, OREGON, *Febr-yaru 12th*, 1877.

To the honorable, the Secretary of War, Washington, D. C.

SIR: In obedience to your telegraphic instructions of the 10th instant, I have the honor to forward enclosed copy of a decision by Associate Justice William Strong (now residing in this city), in the case The Probate Court of Clarke County, plaintiffs, *vs.* Rufus Ingalls and W. W. Loring, defendants,—bill in equity. This case was heard and decided at Vancouver, in the district court, 2nd judicial district, Oregon Territory, (now Washington Territory) in the latter part of the year 1850.

Judge Strong in his letter of transmittal, remarks:

"I remember the case well, no question was at that time made before me as to any claim on the part of the Catholics nor indeed did I until long after that date, hear of any such claim."

This enclosure is certified by Judge Strong this date.

I am, sir, very respectfully, your obedient servant,

O. O. HOWARD,
Brigadier General Commanding.

In the District Court of the 2nd Judicial District, Oregon Territory.

THE PROBATE COURT OF CLARKE COUNTY, Plaintiffs,
vs.
RUFUS INGALLS and W. W. LORING, Defendants. } Bill in Equity.

910 This is an application, founded upon a bill in equity, to obtain an injunction against the defendants, restraining them from enclosing or building upon the land described in the bill.

The plaintiff claims that it represents the county of Clarke and that said county is entitled to one hundred and sixty acres of land, to be selected by the county authorities from the public lands in the county, to be held in trust for county purposes; that the land described in the complaint, which is upon the military reserve or what is claimed as a military reserve by the defendants, has been selected by the county under an act of the late provisional government of the Territory.

The act of Congress under which this claim is made is entitled "An act granting to the counties or parishes of each State or Territory of the United States in which the public lands are situated the right of pre-emption to quarter sections of land for seats of justice within the same." Approved May 26th, 1824.

It is averred that the defendant Loring, who is in command of the United States troops at this post, has given the county notice that he claims, on behalf of the United States, four square miles, including the lands described in the bill, as a military reservation; and that the defendant Ingalls, who is acting quartermaster at the post, has improved and is improving the land selected for county purposes and threatens to make large enclosures thereon, denying the right of the county and claiming rights, as is believed, under the location as a military reserve. Without stopping to enquire

911 whether sufficient is shown by the allegations in the bill to justify the court in granting an injunction on account of the acts done or threatened I will proceed to consider the title under which plaintiffs claim. The act of 1824 seems to refer to States or Territories then existing, but if this point is waived it gives the power of selecting and locating and purchasing by pre-emption a quarter section of land (which is a legal subdivision) in those counties or parishes where there are public lands for sale. It is necessarily implied that there shall be lands open to pre-emption—*i. e.*, surveyed and in the market.

This court judicially knows that there are at present no such lands in this Territory. There has been no law passed authorizing surveys and it is impossible now to determine whether any one hundred and sixty acres now selected would fall within any particular quarter section after the lands are surveyed. In fact, it would be a miracle if it did.

I am of the opinion, therefore, that at present, whatever may be possible in the future, the county can acquire no rights as against the military authorities to the land in question by selecting it as a location for the county seat, and the application for an injunction must be refused.

(S'g'd) WM. STRONG,
Associate Justice of Supreme Court, Oregon Territory, Judge.

The above decision was rendered before me in the fall of 1850, when holding the office of associate justice, &c., Oregon Territory.
WM. STRONG.

Portland, Oregon, Feb. 12, 1877.

912 WAR DEPARTMENT,
WASHINGTON CITY, *Febryary 27th*, 1877.

SIR: I have the honor to transmit herewith, a copy of a letter of the 12th instant from General O. O. Howard, to accompany War Department letter of the 17th instant, on the subject of the St. James mission, in which the enclosed decision of Judge Strong is referred to.

Very respectfully, your obedient servant,
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(Endorsed:) In the district court, 2nd judicial district of W. T., at Vancouver. The Corporation of the Catholic Bishop of Nesqually, plaintiff, *vs.* The United States *et als.*, defendants. Defendants' Exhibit "P." Filed April 17th, 1888. W. Byron Daniels, referee. Filed November 12th, 1888. A. Reeves Ayres, clerk, by W. F. Johnson, deputy.

The end of vol. 8.

913 THE CATHOLIC BISHOP OF NESQUALLY }
vs.
THE UNITED STATES *et al.* }

Referee's Report. Vol. 9.

Defense.

Interior Department record, Exhibits 1 to 13, both inclusive.

Filed November 12th, 1888.

A. REEVES AYRES, *Clerk*,
By W. F. JOHNSON, *Deputy*.

914 Examined.

DEPARTMENT OF THE INTERIOR, W. H. W. D. T.
GENERAL LAND OFFICE, W. D. S.
WASHINGTON, D. C., *March 16th*, 1888.

I, S. M. Stockslager, acting Commissioner of the General Land Office, do hereby certify that the annexed copy of a letter addressed to the surveyor general of Washington Territory, by the acting Commissioner of the General Land Office, September 29th, 1859, is a true and literal exemplification thereof, from the records of this office.

In testimony whereof, I have hereunto subscribed my name, and caused the seal of this office to be affixed, at the city of Washington, on the day and year above written.

[SEAL.] S. M. STOCKSLAGER,
Acting Commissioner of the General Land Office.

(No. 1, hereto attached—*i. e.*, letter to James Tilton, dated September 29th, 1859—is found in vol. 5, place "L;" also vol. 3.)

Examined.

DEPARTMENT OF THE INTERIOR, W. H. W.
GENERAL LAND OFFICE, W. D. S.
WASHINGTON, D. C., *March 16th*, 1888.

I, S. M. Stockslager, acting Commissioner of the General Land Office, do hereby certify that the annexed copy of a letter addressed to the surveyor general of Washington Territory, by the acting Commissioner of the General Land Office, December 19th, 1859, is a true and literal exemplification thereof from the records of this office.

915 In witness whereof, I have hereunto subscribed my name, and caused the seal of this office to be affixed, at the city of Washington, on the day and year above written.

[SEAL.] S. M. STOCKSLAGER,
Acting Commissioner of the General Land Office.

(No. 2, hereto attached, letter to James Tilton, date- Dec. 19, 1859, is found in vol. 3.)

Examined.

DEPARTMENT OF THE INTERIOR, W. H. W.
GENERAL LAND OFFICE, W. D. S.
WASHINGTON, D. C., *March 16th*, 1888.

I, S. M. Stockslager, acting Commissioner of the General Land Office, do hereby certify that the annexed copy of a letter dated January 23, 1862, addressed to the Commissioner of the General Land Office by the surveyor general of Washington Territory, is a true and literal exemplification of the original letter on file in this office.

In testimony whereof I have hereunto subscribed my name, and caused the seal of this office to be affixed, at the city of Washington, on the day and year above written.

S. M. STOCKSLAGER,
[SEAL.] *Act'ng Commissioner of the General Land Office.*

916 (No. 3, letter from surveyor general to Hon. J. M. Edmunds, dated January 23rd, 1862, is found in vol. 3.)

Examined.

DEPARTMENT OF THE INTERIOR, W. H. W. D. T.
GENERAL LAND OFFICE, W. D. S.
WASHINGTON, D. C., *March 16th*, 1888.

I, S. M. Stockslager, acting Commissioner of the General Land Office, do hereby certify that the annexed copy of the decosion, or report, of the U. S. surveyor general of Washington Territory, received with his letter dated Olympia, January 23rd, 1862, is a *reue* and litteral exemplification of said decision, or report, as the original thereof appears on file in this office, in the matter of the contested claims of the St. James Catholic mission, Vancouver town site, military reserve and others for lands at or near Vancouver, in township two north, range one east, Washington Territory.

In testimony whereof I have hereunto subscribed my
[SEAL.] name, and caused the seal of this office to be affixed, at the city of Washington, on the day and year above written.

S. M. STOCKSLAGER,
Acting Commissioner of the General Land Office.

(No. 4, in the matter of the contest of claims to land at and near the city of Vancouver, in the Territory of Washington, before the surveyor general of the Territory of Washington, pursuant to instructions of the General Land Office of the 29th of September, 1859, and December 19th, 1859, is found in vol. 3.)

917 DEPARTMENT OF THE INTERIOR, D. T.
GENERAL LAND OFFICE, W. D. S.
WASHINGTON, D. C., *March 16th*, 188–.

I, S. M. Stockslager, acting Commissioner of the General Land Office, do hereby certify that the annexed traced copy of "a plat of the town of Vancouver," transmitted by the surveyor general of

Washington Territory, January 23rd, 1862, to this office, in the case of the St. James Catholic mission, is a true and literal exemplification of said plat on file in this office.

In testimony whereof I have hereunto subscribed my [SEAL.] name, and caused the seal of this office to be affixed, at the city of Washington, on the day and year above written.

S. M. STOCKSLAGER,
Acting Commissioner of the General Land Office.

(Here follows map marked p. 917*a*.)

(No. 5, hereto attached, is a plat of the town of Vancouver from the field-notes, 1860.

(Endorsed: F. 95284.)

Examined.

DEPARTMENT OF THE INTERIOR, W. H. W. D. T.
GENERAL LAND OFFICE, W. D. S.
WASHINGTON, D. C., *March 16th*, 1888.

I, S. M. Stockslager, acting Commissioner of the General Land Office, do hereby certify that the annexed copy of a letter from the Commissioner of the General Land Office to the Secretary of the Interior, dated Nov. 10th, 1862, transmitting the claim of the "St. James Catholic mission," *et al.*, for the "revision and final determination of the supervisory power," is a true and literal exemplification of said letter from the records of this office.

918 In testimony whereof I have hereunto subscribed my name, and caused the seal of this office to be affixed, at the city of Washington, on the day and year above written.

[SEAL.] S. M. STOCKSLAGER,
Acting Commissioner of the General Land Office.

GENERAL LAND OFFICE, *November 10th*, 1862.

The Hon. C. B. Smith, Secretary of the Interior.

SIR: This office has had under examination the claim of the Catholic Mission of St. James to 640 acres at Vancouver, township 2 north, range 1 east, on the north bank of the Columbia river in Washington Territory.

The mission is claimed to be a confirmation in virtue of the 2nd. proviso to the act of August 14, 1848, U. S. Statutes, vol. 9, page 323, which declares, "that the title to the land, not exceeding six hundred and forty acres now occupied as missionary stations among the Indian tribes, 'in the Oregon territory,' together with the improvements thereon, be confirmed and established in the several religious societies to which said missionary stations respectfully belong."

The plat herewith exhibits the mission claim, and in conflict therewith, the United States military reserve, and the Vancouver town site, under act of 23rd. May, 1844, being the triangular parcel

of the east fractional half of fractional section 27—also the donation claim of the widow Esther Short.

919 The surveyor general of Washington Territory, has transmitted to the office under date 23rd. January 1862, printed copy herewith, his ruling in favor of the mission and against the other three claims above mentioned. The papers on which that report was founded did not accompany it, and hence never specially called for by this office, as they have failed to reach here, the Revd. Mr. Bronillet who represents the mission, assuming their loss in the ship "Golden Gate," filed in this office, with letter of 6th. ult., the accompanying transcripts in lien of the originals.

From an examination of these and the other papers in the case, we find as follows:

1st. That the Hudson's Bay Company held a license dated 30th. May 1838, to trade 21 years with the Indians, west of the Rocky mountains, having in fact reduced into possession the body of land in question, as early as the year 1824, and held possession of it from 1824 to 30th. of May 1859—that:

2nd. These rights were protected first by the provisions of the joint connection of 1818, with Great Britain for 10 years, and thereafter by the convention of 1827, treaty vol. 8, pages 248 and 360, whereby those provisions were "indefinitely extended and continued in force;" and further,

3rd. "The possessory rights of the Hudson's Bay Company" are especially protected and expressly guarantied by the 3rd. article of the treaty between the United States and Great Britain, concluded on the 15th. June 1846—vol. 9, page 870.

It follows consequently that 24 years prior to the act approved August 14th*a*. 1848, (establishing the Territorial govern-

920 ment of Oregon), which contains a proviso confi-*n*ing title to mission stations, and nearly 11 years after the date of that act, the land in controversy was placed by conventions and treaty between the United States and Great Britain, in a state of isolation and was set apart to*o*, and in lawful and undisputed possession of the Hudson's Bay Company.

Will any man say that in this condition of affairs it was the purpose of Congress by the said act of August 14, 1848, in defiance of the obligations which the United States had assumed, to take hold of 640 acres within the Hudson's Bay Company possessions, carve out therefrom as public land, 640 acres, and set apart and confirm such property to the mission?

Let it be borne in mind too, that when the mission confirmation act of 1848 was passed, the Hudson's Bay possessions were known to Congress only by the conventions of 1818 and 1827, as interests protected and guarant*ie*d "indefinitely," and the fact of the expiration of these rights was not brought to the knowledge of the department until 1859.

In this connection it is proper to consider a point which has been made by the mission claimants and relied on in the surveyor general's report, whereby the Hudson's Bay possessory rights are as-imilated to the Indian usufruct, applying to the same, an opinion

dated 3rd June, 1859, of Attorney General Black, wherein he recognizes the act of Congress of 8th August, 1846, granting lands to the State of Wisconsin as embracing land in the Stockbridge reserve.

921 The relations subsisting between civilized powers and the Indians, and those subsisting between the United States and European governments, as equals under the public law, stand on a very different basis. The Attorney General of the United States, in 1856, sums up the ruling of the Supreme Court, of the United States, in regard to the relations between the Indians and the United States, in the following terms:

"In the case of Mitchell *vs.* United States, that was one of the points, and it was expressly held by the court, as the established public law of America, that the Government owns the fee of the soil, and may grant the same while the lands remain in the possession of the Indians (1 X Peters p. 711)."

In the case of The United States *vs.* Fernandez, X Peters page 304, the ruling of the Supreme Court is equally pointed and explicit as to the right claimed and exercised by every European government of "granting lands while in the occupation of the Indians."

Such a principal as applicable to the relations between civilized nations, equals in all respects, under the public law, is rejected in the present case as unsound and utterly inadmissible without tracing out the obvious consequences of the application in practice.

It will be observed that in the foregoing the mission has been considered as if it were a subsisting, independent, acknowledged interest, with ascertained limits of 640 acres, and that even in that aspect, it cannot be regarded as confirmed by the said act of 14th August, 1848; but we now proceed to the enquiry as to the real status of the interest as shown by the papers and find,

922 4th. That in the fall of 1838, two Catholic missionaries under the authority of the bishop of Quebec, reached Vancouver; that other priests reached there subsequent to 1842, and down to the period of the expiration in 1859, of the Hudson's Bay Company's charter, and that in fact, a priest was always residing at that place attending to the religious wants of the families of the servants or employés of the company, who had Indian wives; that the company acknowledged their services by the payment of £100 per annum, and that so far as temporal interests are concerned, the mission was a dependency of the company.

The religious services were performed by the priests in an old storehouse belonging to the company until 1846, when a church edifice, according to the language of the record of dedication (paper B), was "founded and built by Mr. James Douglas, chief factor of the Hudson's Bay Company, and governor of Vancouver.

Prior and up to this period, indeed until 1853, do we hear of a claim to the mission as an independent, recognized, and confirmed interest?

What does Bishop Blanchet — on the subject in his cross-examination, paper C? There it is:

Int. 1. "When did you first hear of the claim made to land at Vancouver as a mission station?"

Ans. "I can't exactly say; I know it was not to be claimed as long as the Hudson's Bay Company was in possession of it."

Int. 2. "In 1848 was the mission in possession of any land?"

Ans. "It was in posession of the land where the church is."

Int. 3. "From what source did it get that land?"

923 Ans. "From Mr. Douglas, who showed me the place. This was done at my request that we might have a more established place."

Int. 4. "Did the mission ever acquire any right to that land except by the consent or permission of Mr. Douglas?"

(Objected to by Mr. Farrar.)

Ans. "No; it did not; there was no other way."

Int. 5. "Has the mission ever claimed to exercise ownership over any part of the land except that on which the church is built?"

Ans. "No; we did not, except what was granted for the church, and we expected to have a deed for that land from the Hudson's Bay Company when the company could give one."

Int. 6. "In 1848 where did Mr. Delevan reside?"

Ans. "Inside the pickets of the H. B. Co."

Int. 7. "Where in 1849 and till he left?"

Ans. "In the same place."

Int. 8. "Did you or any other priest before 1850 live anywhere about Vancouver except within the Co.'s pickets?"

Ans. "No, sir."

In 1853, however, we find the bishop filed in the United States surveyor general's office a claim as a mission to a section of land embracing the present site of Fort Vancouver. Therefore Governor Peter Skeen Ogden, on the part of the Hudson's Bay Company, filed a protest dated May 23rd, 1853, against it. See transcript with Capt. Ingall's report of 15th January, 1859. In that protest the governor declares that "no such mission ever existed at that" place, but that, on the contrary, the Catholic church has been sustained in part by the Hudson's Bay Company for their servants.

924 In the year 1850, the year following the establishment of the military post, the reserve, under orders from the War Department, was declared 4 miles square.

In that year the United States quartermaster "rented this church building of the company, a part of it was occupied as quarters for an officer of the rifle regiment, and the rent of it was paid to the company." See Ingall's report, page 3, not a word as to a mission claim was then heard, nor a question made as to the right of the Hudson Bay Company to rent those buildings, which were their property, and this was two years after the passage of the act of 1848, under which the mission is now claimed.

By the act of February 14th, 1853, sec. 9, vol. 10, page 159, lands reserved for military purposes were required to be reduced to not

exceeding 640 acres, with a proviso that should it be deemed necessary, in the judgment of the President, "to include in any such reservation the improvement of any settler made previous to such reservation, it shall be the duty of the Secretary of War to cause the value of such improvements to be ascertained, and the amount so ascertained to be paid to the party entitled thereto."

Pursuant to orders from the military authorities the military reservation was reduced accordingly, and its boundaries fixed by landmarks in December, 1853. On 17th January, 1854, a board was ordered and convened to examine and report upon the extent, condition, and probable value of all improvements contained within the limits of the present military reservation at this post of 640 acres."

925 They reported that the military reservation, as designated by the commanding officer, is a portion of the land claimed by Hudson's Bay Company, and that it encludes their entire establishment at "Fort Vancouver, and that with the exception of those belonging to the United States they claim all the buildings upon it as their property, and also all the improvements of whatever character"—the "Catholic church" and "parsonage" being included in the inventory of the property and valued at $3,000. See Ingall's report of 15th January, 1859, and accompanying papers.

In said report of Ingalls', not only an official document but verified by his affidavit (paper No. 6), it is stated that the United States military have been "in constant occupation," exercising "supreme control within the limits of its reservation," excepting as to the Hudson's Bay Company's rights, that the Catholic mission had never sought to intermeddle, and (referring to the valuable and extensive improvements of the United States) had never claimed anything while these improvements were going on; but that a "town of importance sprang up" there "a year or two ago that bids fair to be a prosperous one."

5th. The town-site claim of Vancouver, thus referred to as taken by the mission and occupying the triangular parcel of land lying between Short and the United States military reserve, is a claim under the general town site law of 23rd May, 1844, United States Statutes, vol. 5, page 657, resting upon an order dated July 23rd, 1850, of the probate judges, locating a parcel of land which the surveyor

926 general states "was surveyed and subdivided into blocks and lots, and the plats thereof recorded, and there is some evidence that lots were sold under said survey."

6th. The Widow Short donation claim, likewise taken in part by the mission. In that case Short was on the land in 1846; was driven off by the Hudson's Bay Company; was there again in 1847, when he built a house; resided on the claim from 8th March, 1848, to his death, 19th January, 1853, having recorded his claim in 1846, under the laws of the provisional government of Oregon; filed a notification on 4th October, 1853, dated August 26th, 1853, under the act of 14th of Feb., 1853, amendatory of the donation act of September, 1850.

The Vancouver townsite and the Short claim not interfering with each other, yet the mission taking the whole of one of them and a portion of the other, one having an inception anterior to the alleged confirmation of the mission of 1848, yet there is nothing to show that prior to that year nor until the bishop's filing in 1853 was any adverse claim asserted by the church authorities, nor any protest of any kind presented by them against those interests.

According to the facts shown by the papers and referred to in the foregoing, we reach the conclusion, first, that the land in question was in the undisputed control of and held by the Hudson's Bay Company, in virtue of their possessory right, from the year 1824 to 1859, except, second, as to the United States military reserve tract, which, by agreement in 1849, the said company conceded to the military authorities of the U. States; that, by the conventions of 1818 and 1827 and the treaty of 1846 with Great Britain, those rights were expressly protected and guaranteed by our Gov-
927 ernment, and consequently withdraws from being dealt with as public lands; that the act of August 14th, 1848, under which the mission sets up their claim, could not be construed as embracing said mission consistently with our treaty obligations and did not embrace it, the fact of there being a limitation to the rights of the Hudson's Bay Company not having been brought to light until several years after the passage of that act.

That the acts of ownership long prior to 1848 by the Hudson's Bay Company and in that year by them and also subsequently by them and by the United States military authorities for five years after said act of August 14th, 1848, without dissent of any kind, but with acquiescence on the part of the mission representatives on the spot, are facts excluding the presumption of the existence of an adverse independent interest in the mission, a conclusion strengthened by the adverse claims set up by the townsite and donation, which were not at the time of their inception, not long afterwards, disputed by the mission, and which townsite and donation, as interests entirely between them and the United States, are hereafter to be determined on their merits when presented for adjudication.

This office, therefore, overrules and reserves the judgment of the surveyor general and rejects the mission claim as not recognized by law.

In reaching the foregoing conclusion, however, I have to add that, whilst, then, the mission is not a right *stricti juris*, yet, as it was on the land permissively, and the beneficient influences of the instruction were felt and acknowledged, this office would, in
928 a spirit of equity, willingly recommend to the legislative power a pure concession by deed in fee simple to the mission of the church site, buildings, and grounds immediately appurtenant thereto, thus realizing the expectation of the bishop, as indicated in his testimony, in so far, at least, as it would not intrench upon or impair the premises necessary for the military establishment or the rights of others, and in this respect and to this extent continue the means of usefulness to the church in the future as have existed

in the past in that distant region. A schedule accompanies the papers.

The case is submitted for the revision and final determination of the supervisory power.

J. M. EDMUNDS,
Commissioner.

Examined. W. H. W.

DEPARTMENT OF THE INTERIOR, D. T.
GENERAL LAND OFFICE, W. D. S.
WASHINGTON, D. C. *March 16th*, 1888.

I, S. M. Stockslager, acting Commissioner of the General Land Office, do hereby certify that the annexed copy of a communication dated April 9, 1863, from the Assistant Secretary of the Interior to the Commissioner of the General Land Office, is a true and literal exemplification from the records of this office.

In testimony whereof, I have hereunto subscribed my [SEAL.] name, and caused the seal of this office to be affixed, at the city of Washington, on the day and year above written.

S. M. STOCKSLAGER,
Commissioner of the General Land Office.

929 DEPARTMENT OF THE INTERIOR,
WASHINGTON, *April 9th*, 1863.

SIR: In your report of the 10th Nov'r last, upon the claim of the Catholic Mission of St. James, at Vancouver, Washington Territory, you have stated your conclusions and submitted the case for the "revision and final determination of the department."

The Secretary instructs me to inform you, that upon an examination of the papers, he is of the opinion that such revision and final determination cannot, under existing circumstances, be rightfully made.

It appears from your diagram and the accompanying papers, that this claim, presented under the act of Congress of August 14th, 1848 (Stats., vol. 9, p. 323), covers a portion of a military reservation established in 1853, by order of the Secretary of War, under authority of the 9th section of the act of February 14th, 1853 (Stats., vol. 10, pp. 159, 160), and upon which the Government at great expense has erected valuable improvements, the town site of Vancouver, claimed under the act of Congress of May 23rd, 1844, and a part of the donation tract of the heirs and widow of Amos M. Short.

You have decided adversely to the mission claim, overruling an elaborate decision of the surveyor general of Washington Territory in its favor, forwarded to you January 23rd, 1862, but your decision is embodied in your report to this department, and not, as is usual, in an official letter to the surveyor general, from which an appeal might be regularly taken, and of which all parties in interest would have notice.

930 The party against whom you decide, being present, be agent and by counsel, and desiring a reversal of your decision,

by this department, could make no objection to the form of it, and the want of an appeal, but these irregularities are an objection to any consideration of the case here, which could result in a reversal of your action. No case involving a disputed title to land, should be determined upon appeal in the absence of due notice to the parties in interest, unless notice has been expressly waived.

Furthermore, I find that the papers which you have received and considered as evidence, are informal copies or transcripts furnished you by Rev. J. B. A. Brinilett, vicar general of Nesqually who represents the Catholic claim.

It is not certain but that these copies may contain more or less than the files of the case. They appear to have been furnished under the assumption that the original papers had been lost with the steamer Golden Gate, but the letter of the surveyor general of 26th October 1862, states that copies certified by him, were mailed at such a date at Olympia, that they were probably lost on that steamer.

These copies have never been received by you, but the original papers appear to remain in the office of the surveyor general at Olympia.

The informal copies now before us, are deficient in having no official authentication and as not showing the date, or order of presenting the testimony, or the officer before whom, and the place at which the witnesses were sworn and testified.

931 In this state of facts, it might be possible to affirm your decision, but upon no principal of justice and law could the department assume to revise or reverse it, or make a final determination in respect to the title to the lands in controversy.

It would be proper for you to notify the surveyor general that your views of the right of the mission of St. James do not agree with his, and to order him to forward duly certified transcripts of all official papers, notices, and evidence, presented by each claimant, on the receipt of which, you should make a decision upon all the conflicting claims, from which an appeal may be taken by any party desiring a review of your decision.

I am sir, very respectfully, your obedient servant,

W. T. OTTO,
Assistant Secretary.

Commissioner of the General Land Office.

(Endorsed:) No. 7. Interior Department records. Filed by defendants April 6th, 1888. W. Byron Daniels, referee.

Examined. W. H. W.

DEPARTMENT OF THE INTERIOR, D. T.
GENERAL LAND OFFICE, W. D. S.
WASHINGTON, D. C., *March 16th*, 1888.

I, S. M. Stockslager, acting Commissioner of the General Land Office, do hereby certify that the annexed copy of a telegram dated April 13th, 1863, from the Commissioner of the General Land Office to the surveyor general of Washington Territory, is a true and literal exemplification thereof from the records of this office.

932 In testimony whereof I have hereunto subscribed my name and caused the seal of this office to be affixed, at the city of Washington, on the day and year above written.

[SEAL.] S. M. STOCKSLAGER,
Acting Commissioner of the General Land Office.

(Telegram.)

GENERAL LAND OFFICE, *April* 13, 1863.

Surveyor general, Olympia, Washington Territory:

Send here immediately certified transcript of all papers in the hearing and adjudication of Vancouver Catholic mission, townsite, Short donation, and military reservation claims.

J. M. EDMUNDS,
Commissioner.

(Endorsed:) No. 8. Interior Department records. Filed by defendants April 6th, 1888. W. Byron Daniels, referee.

Examined. W. H. W.

DEPARTMENT OF THE INTERIOR, D. T.
GENERAL LAND OFFICE, W. D. S.
WASHINGTON, D. C., *March 16th*, 1888.

I, S. M. Stockslager, acting Commissioner of the General Land Office, do hereby certify that the annexed copy of a letter from the surveyor general of Washington Territory to the Commissioner of the General Land Office, dated April 29th, 1863, is a true and literal exemplification of said letter from the files of this office.

933 In testimony whereof I have hereunto subscribed my name and caused the seal of this office to be affixed, at the city of Washington, on the day and year above written.

[SEAL.] S. M. STOCKSLAGER,
Acting Commissioner of the Gen'l Land Office.

SURVEYOR GENERAL'S OFFICE,
OLYMPIA, W. T., *April 29th*, 1863.

Hon. J. M. Edmunds, Commissioner General Land Office,

SIR: In obedience to your instructions of the 13th. inst., by telegraph, received here on the 21st. inst., I herewith send you certified transcript of all the papers in the hearing and adjudication of the Catholic mission claim, townsite, A. M. Short's donation claim and military reservation at Vancouver, also copies of notifications, depositions, letters &c., referred to in said case. The orthography and punctuation is same as in the originals.

Very respectfully, your obedient servant,

ANSON G. HENRY,
Sur. Gen'l. W. T.

(Endorsed:) No. 9. Interior Department records. Filed by defendants April 6th, 1888. W. Byron Daniels, referee.

934 Examined.

DEPARTMENT OF THE INTERIOR, W. H. W. D. T.
GENERAL LAND OFFICE, W. D. S.
WASHINGTON D. C., *March 16th*, 1881.

I, S. M. Stockslager, acting Commissioner of the General Land Office, do hereby certify that the annexed copy of the decision dated October 16th, 1863, by the Commissioner of the General Land Office, in the matter of the "Catholic Mission of St. James," is a true and literal exemplification thereof from the records of this office.

In testimony whereof I hereunto subscribed my name and cause the seal of this office to be affixed, at the city of Washington, on the day and year above written.

S. M. STOCKSLAGER,
[SEAL.] *Acting Commissioner of the General Land Office.*

GENERAL LAND OFFICE,
October 16th, 1863.

A. G. Henry, Esq., U. S. surveyor general, Olympia, W. T.

SIR: The case of the Catholic Mission of St. James at Vancouver, in conflict with the United States military reserve, with Vancouver town-site and the Widow Short donation, is the subject of your report to this office bearing date 23rd. January 1862, rendering your decision in favor of the said mission, and against the conflicting interests.

935 In November last the Reverend Mr. Brouillet representing the mission, filed in this office, certain papers as copies of those on which your report was founded, apprehending that the original transcript had been lost on the "Golden Gate," and expressing a willingness to go to trial on those copies.

Accordingly this office received your report in connection with the aforesaid copies, and submitted the result in a report dated 10th. November, 1862, to the Secretary of the Interior, in which we ruled advers-ly to your adjudication.

The papers were subsequently returned to this office, by the Assistant Secretary of the Interior, with a request that our decision should be in favor of an official letter to the surveyor general from which, after notice, an appeal could be taken.

At the same time the Assistant Secretary took exception to the informality of the copies in having no official authentication. In reference to that objection a call was made upon you by telegrapg on 13th. April last, for "certified transcript of all papers in the hearing and adjudication of Vancouver Catholic mission, town-site, Short donation, and military reservation claims" in accordance with which your reply of 29th. April last, has reached this office, with the desired transcripts.

Upon examination of them, we find the facts existing, substantially as shown in the copies, and in no respect changing the opinion expressed in our aforesaid report dated November 10th. 1862, (copy herewith)

Therefore for the reasons presented in that report, this office
936 hereby reverses the surveyor general's decision in favor of the mission, and desides that the aforesaid Catholic Mission of St. James, has no lawful right to the premises in question.

In this view, the townsite and Short donation, standing unaffected by the mission, are matters wholly between those parties and the United States, any question in regard to either or both of them, being first determinable by the register and receiver, for the land district in which they are situated, subject to appeal to or to revision by this office.

You will make known this decision to all parties interested.

It will be communicated to W. H. Farrar, Esq., who has appeared in behalf of the mission.

Very respectfully, your obt. servt.,

J. M. EDMUND,
Commissioner.

(Endorsed:) No. 10. Interior Department records. Filed by defendants April 6th, 1888. W. Byron Daniels, referee.

Examined.

DEPARTMENT OF THE INTERIOR, W. H. W. D. T.
GENERAL LAND OFFICE, W. D. S.
WASHINGTON, D. C., *March 16th*, 1888.

I, S. M. Stockslager, acting Commissioner of the General Land Office, do hereby certify that the annexed copy of the appeal filed February 16th, 1864, in the General Land Office by W. H. Farrar, att'y for "St. James' mission," is a true and literal exemplification from the files of this office.

In testimony whereof I have hereunto subscribed my name and caused the seal of this office to be affixed, at the city of
937 Washington, on the day and year above written.

[SEAL.] S. M. STOCKSLAGER,
Acting Commissioner of the General Land Office.

WASHINGTON, D. C., *February 16th*, 1864.

Hon. J. M. Edmunds, Commissioner Genl. Land Office, Washington, D. C.

DEAR SIR: In the matter of the decision rendered by you in the case of the R. C. St. James mission, to a claim of 640 acres of land at Vancouver, W. Ty., I respectfully appeal to the Honorable Secretary of the Department of the Interior, and request that you will transmit all the papers in your office to that of the Secretary.

Very respectfully, yours, W. H. FARRAR,
Att'y for St. James Mission.

(Endorsed:) No. 11. Interior Department record. Filed by defendants. April 6th, 1888. W. Byron Daniels, referee.

Examined. W. H. W.

DEPARTMENT OF THE INTERIOR,
GENERAL LAND OFFICE, W. D. S.
WASHINGTON, D. C., *March 16th*, 1888.

I, S. M. Stockslager, acting Commissioner of the General Land Office, do hereby certify that the annexed copy of a letter from the acting Secretary of the Interior to the Commissioner of the
938 General Land Office, dated March 11th, 1872, transmitting a copy of the opinion of the Assistans Attorney General of the United States in the matter of the claim of the St. James Catholic mission and others to lands in the Vancouver district, Washington Territoey, is a true and literal exemplification of said letter from the files of this office.

In testimony whereof I have hereunto subscribed my name and caused the seal of this office to be affixed, at the
[SEAL.] city of Washington, on the day and year above written.

S. M. STOCKSLAGER,
Acting Commissioner of the General Land Office.

DEPARTMENT OF THE INTERIOR,
WASHINGTON, D. C., *11th March*, 1872.

SIR: I transmit herewith a copy of the opinion of the Hon. Walter H. Smith, Assistant Attorney General, of 29th January last, on the claim of the Roman Catholic mission of St. James, to certain lands in the Vancouver district Washington Territory, under the act of 14th August, 1848. (9th Stat. 323) I also transmit a copy of a letter on the subject addressed to the department on the 2nd inst., by the Hon. G. H. Williams, Attorney General, to whom the opinions of the Assistant Attorney General was submitted.

I fully concur in the views set forth in the opinion, and you will give the necessary orders to carry them into effect. The
939 papers accompanying your letter of 18th April last are herewith returned.

I am sir, very respectfully, your obedient servant,

B. R. COWEN,
Acting Secretary.

Honorable Willis Drummond, Commissioner General Land Office.

(Endorsed:) No. 12. Interior Department records. Filed by defendants April 6th, 1888. W. Byron Dani*l*es, referee.

DEPARTMENT OF THE INTERIOR, D. T.
GENERAL LAND OFFICE, W. D. S.
WASHINGTON, D. C., *March 16th*, 1888.

I, S. M. Stockslager, acting Commissioner of the General Land Office do hereby certify that the annexed copy of a letter dated May 9th, 1872, addressed by this office to the U. S. surveyor general,

Olympia, W. T., in the matter of the St. James mission claim to lands at Vancouver, Washington Territory, is a true and literal exemplification of the original letter aforesaid, as the same appears of record in this office.

In testimony whereof I have hereunto subscribed my
[SEAL.] name and caused the seal of this office to be affixed, at the city of Washington, on the day and year above written.

S. M. STOCKSLAGER,
Acting Commissioner of the General Land Office.

940

DEPARTMENT OF THE INTERIOR,
GENERAL LAND OFFICE,
WASHINGTON, D. C., *May 9th*, 1872.

U. S. surveyor general, Olympia, W. T.

SIR: For your information and guidance, in the matter, I herewith enclose a copy of the opinion of the Hon. Walter H. Smith, Assistant Attorney General, of 29th January last, together with a copy of the decision of the Hon. Secretary of the Interior, of 11th March last, in the case of the claim of the Roman Catholic Mission of St. James, at Vancouver, W. T.

The Hon'l Secretary decides that the claim of the mission shall be reduced from 640 acres, as claimed to "a small tract of land which had been improved by the erection of a church," and that said tract as near as can now be ascertained, together with the improvements thereon should be set off by the surveyor general, as the tract confirmed by the act of 1848, to the religious society to which such mission belongs.

You are hereby instructed to take immediate steps to make a survey of said claim in strict conformity with the decision of the Secretary of the Interior, and when the same shall have been completed, forward a plat and copy of the field notes thereof, to this office, in the mean time you will please acknowledge the receipt of these instructions.

Very respectfully, your obedient servant,

WILLIS DRUMMOND,
Commissioner.

(Endorsed) No. 12½. Interior department records. Filed by defendants April 6th, 1888. W. Byron Daniels, referee.

941

Examined.

DEPARTMENT OF THE INTERIOR, D. T.
GENERAL LAND OFFICE, W. D. S.
WASHINGTON, D. C., *March 16th*, 1888.

I, S. M. Stockslager, acting Commissioner of the General Land Office, do hereby certify that the annexed copy of a copy of the opinion dated 29th January, 1872, of W. H. Smith, Assistant Attorney General, in the matter of the St. James mission, at Vancouver, Washington Territory, for 640 acres of land is a true and literal exemplification of said opinion, in said case, as the same appears on file in this office.

In testimony whereof I have hereunto subscribed my name, and caused the seal of this office to be affixed at the city of Washington, on the day and year above written.

S. M. STOCKSLAGER,
Acting Commissioner of the General Land Office.

(Letter hereto attached and marked No. 13, is found in vol. 5, at place " D.")

The end of vol. 9.

942 CATHOLIC BISHOP OF NESQUALLY *vs.* UNITED STATES *et al.* } Referee's Report. Vol. 10.

Defense.

Interior Department record, Exhibits 14 to 27, both inclusive.

Filed November 12th, 1888.

A. REEVES AYRES, *Clerk*,
By W. F. JOHNSON, *Deputy.*

943 Examined.

DEPARTMENT OF THE INTERIOR, W. H. W. D. T.
GENERAL LAND OFFICE, W. D. S.
WASHINGTON, D. C., *March 16th*, 1888.

I, S. M. Stockslager, acting Commissioner of the General Land Office, do hereby certify that the annexed copy of a letter from the Attorney General of the United States to the Secretary of the Interior, dated March 2, 1872, transmitting " the opinion of Asst. Atty. Gen'l. Smith upon the claim of the Roman Catholic Mission of St. James," * * at Vancouver, in Washington Territory, is a true and literal exemplification of said letter from the files of this office.

In testimony whereof, I have hereunto subscribed my name, and caused the seal of this office to be affixed, at the city of Washington, on the day and year above written.

[SEAL.] S. M. STOCKSLAGER,
Acting Commissioner of the General Land Office.

(Letter attached hereto and marked No. 14 is found in vol. 5, " F.")

944 Examined.

DEPARTMENT OF THE INTERIOR, W. H. W. D. T.
GENERAL LAND OFFICE, W. D. S.
WASHINGTON, D. C., *March 16th*, 1888.

I, S. M. Stockslager, acting Commissioner of the General Land Office, do hereby certify that the annexed copy of a letter dated Olympia, July 31st, 1872, addressed to the Commissioner of this office, by L. P. Beach, surveyor general W. T., and enclosures mentioned in said letter being copy of field-notes and tracing of plat of

survey of St. James mission claim, at Vancouver, W. T., is a true and literal exemplification of said letter, field-notes and plat, endorsed therein, as the originals thereof appear on file in this office in the matter of said mission claim.

In testimony whereof I have hereunto subscribed my name, and caused the seal of this office to be affixed, at the city of Washington, on the day and year above written.

[SEAL.] S. M. STOCKSLAGER,
Acting Commissioner of the Gen. Land Office.

SURVEYOR GENERAL'S OFFICE,
WASHINGTON TERRITORY, OLYMPIA, *July 31st*, 1872.

SIR: In compliance with your letter of instructions, under date of 9th. May 1872, directing me to take immediate steps to make a survey of the Roman Catholic Mission of St. James, at Vancouver, W. T., I have respectfully to report, as follows:—

945 On or about the 1st. inst., I proceeded to Vancouver, and after a careful examination of the premises, and eliciting such reliable facts and information relative to the exact location and boundary of the mission claim, as was contemplated in, and would accord with the decision of the Hon. Secretary of the Interior, I accordingly procured the services of a competent deputy surveyor and proceeded to survey and locate the premises. From the facts elicited, it appears that the mission, on the 14th. day of August, 1848, had been granted permission from the Hudson's Bay Company, to erect a small church for religious and mission purposes, outside of the stockade, on the public common; that there was no enclosure other than the church erected by any party at that time, by which the premises intended to be granted or donated to the mission, could be designated; that the land subsequently enclosed and now occupied by the mission, which the plat of the survey herewith enclosed will represent, has never been in the immediate possession of, or occupied by any other parties so far as I am able to ascertain. I have therefore caused the survey to be made within the bounds of, and in accordance with such prescribed limits as appear to have been continuously occupied by the mission, and which appear most definitely to conform to the decision of the Hon. Secretary of the Interior.

Authenticated copies of the field-notes and plat of said survey are herewith transmitted together with an account of the expenses incurred in making said survey.

946 I have the honor to be, very respectfully, your obt. servant,

L. P. BEACH,
Surveyor General, W. T.

Hon. Willis Drummond, Com'r Gen'l. Land Office, Washington, D. C.

(Field-notes of the survey of St. James Catholic mission at Vancouver, W. T., are found in vol. 3.

(Diagram above referred to of the survey of St. James mission claim, Vancouver, Washington Territory, surveyed July 10th, A. D. 1872, by Levi Farnsworth, U. S. deputy surveyor, is hereto attached.)

(Here follows map marked p. 946*a*.)

DEPARTMENT OF THE INTERIOR, D. T.
GENERAL LAND OFFICE, W. D. S.
WASHINGTON, D. C., *March 16th*, 1888.

I, S. M. Stockslager, acting Commissioner of the General Land Office, do hereby certify that the annexed copy of a letter dated March 10th, 1873, addressed by this office to L. P. Beach, Esq., U. S. surveyor general Olympia, Washington Territory, in the matter of the St. James mission claim, to lands at Vancouver in said Territory, is a true and literal exemplification of the original letter aforesaid as the same appears of record in this office.

In testimony whereof I have hereunto subscribed my
[SEAL.] name, and caused the seal of this office to be affixed, at the city of Washington, on the day and year above written.

S. M. STOCKSLAGER,
Acting Commissioner of the Gen'l Land Office.

947 DEPARTMENT OF THE INTERIOR,
GENERAL LAND OFFICE,
WASHINGTON, D. C., *March 10th*, 1873.

L. P. Beach, Esq., U. S. surveyor genl., Olympia, Washington Ty.

SIR: I have carefully examined the plat of the survey of the claim of the St. James Catholic mission at Vancouver, and your letter of transmittel dated July 31, 1872, said survey having been made on the 10th day of July, 1872, by U. S. deputy surveyor, Levi Farnsworth, under instructions from this office, dated May 9th, 1872, enclosing a copy of a letter dated 29th Jan. 1872, from the Hon. Asst. Atty. General.

From your said letter of the 31st of July, 1872, it appears that the only land occupied by said mission on the 14th day of August, 1848, was a small inclosure upon which the church was erected and which it is presumed you have represented by red lines in the south-east corner of the plat of survey transmitted to this office. It is also understood by your letter that the remainder of the land represented on said plat was enclosed subsequent to the 14th. day of August, 1848.

In the opinion of this office the St. James Catholic mission is entitled under the letter of the 29th. of January, 1872, from the Hon. Asst. Atty. Genl., only to such tract of land as was occupied at the date of the act of Congress approved August 14th, 1848, (9
948 Stats. p. 323) and hence if the mission in this case occupied at that date no lands but those upon which the church was erected, and which appear to be represented in the southeast corner of the plat sent up by you, that small tract only should have been included in your survey of the aforesaid claim.

If this office is correct in supposing that said tract in the south-east corner of the above-mentioned plat was found by you to be the only land enclosed by said mission at the date of the act of August 14th, 1848, you will at once prepare a plat of said tract, together with the field-notes thereof, and forward the same to this office, or if in your investigations of the matter, you found that a lerger area was thus enclosed at that date, you will cause a survey thereof to be made and returned to this office at the earliest practicable moment.

Please acknowledge the receipt of this letter.

Very respectfully, WILLIS DRUMMOND,
Commissioner.

(Endorsed:) No. 16. Interior Department records. Filed by defendants April 6th, 1888. W. Byron Daniels, referee.

DEPARTMENT OF THE INTERIOR, D. T.
GENERAL LAND OFFICE, W. D. S.
WASHINGTON, D. C., *March 16th*, 1888.

I, S. M. Stockslager, acting Commissioner of the General
949 Land Office, do hereby certify that the annexed copies being letter dated April 21st, 1873, from L. P. Beach, surveyor general, Washington Territory, and papers mentioned in said letter and enclosed therein, are true and literal exemplifications of said letter and enclosures, as the same appear on file in this office, in the matter of the "St. James mission" claim, to certain lands at Vancouver, Washington Territory.

In testimony whereof, I have hereunto subscribed my name, and caused the seal of this office to be affixed, at the city of Washington, on the day and year above written.

[SEAL.] S. M. STOCKSLAGER,
Acting Commissioner of the Gen'l Land Office.

SURVEYOR GENERAL'S OFFICE,
WASHINGTON TERRITORY, OLYMPIA, *April 21st*, 1873.

SIR: Referring to your letter of the 10th ultimo, (*E*nitial "D") I have the honor herewith to transmit authenticated copy of the survey of the St. James Catholic mission claim at Vancouver, W. T., the said survey having been made in pursuance of your instructions to this office under date of May 9th, 1872.

The premises represented by the plat herewith transmitted, were surveyed by the deputy at the time and in connection with the survey of the grounds represented by the plat previously transmitted by this office July 30, 1872, but in view of the facts at that
950 time elicited, which gave evidence that this latter and larger area had been continuously occupied by the mission claimants, from a very early date, not definitely ascertained, I caused the survey thereof and transmitted the field-notes and plat thereof, for your further action. It is however very clear to my mind that on the 14th day of August, 1848, there was no enclosure occupied by the mission, outside of the limits of the premises embraced in the

survey herewith transmitted; and there is even some doubt whether there was any enclosure at that date except the lands actually occupied or covered by the church building, convent and kitchen, as designated in the plat reference, Nos. 1, 2, and 3.

The survey herewith transmitted is therefore identical with that represented by the red lines in the southeast corner of the plat of survey sent for this office July 30th, 1872; the remainder of the land represented on said plat, was doubtless subsequently as you have supposed.

Trusting that the papers herewith sent, with this explanation, may prove satisfactory, I have the honor to be

Very respectfully, your obt. servant,

L. P. BEACH,
Surveyor General, W. T.

(Field-notes attached to letter herewith, marked No. 17, of the survey of St. James Catholic mission claim, at Vancouver, W. T., by L. Farnsworth, 1872, are found in vol. 3.)

(Plat above referred to is hereto attached.)

(Here follows map marked p. 950*a*.)

951 DEPARTMENT OF THE INTERIOR, D. T.
GENERAL LAND OFFICE, W. D. S.
WASHINGTON, D. C., *March* 16, 1888.

I, S. M. Stockslager, acting Commissioner of the General Land Office, do hereby certify that the annexed copy of a letter dated May 19, 1873, addressed by this office to the United States surveyor general, Olympia, Washington Territory, in the matter of the "St. James mission" claim to lands at Vancouver, in said Territory, is a true and literal exemplification of the original letter aforesaid, as the same appears of record in this office.

In testimony whereof, I have *n*ereunto subscribed my name, and caused the seal of this office to be affixed, at the city of Washington, on the day and year above written.

[SEAL.] S. M. STOCKSLAGER,
Acting Commissioner General Land Office.

DEPARTMENT OF THE INTERIOR,
GEN'L LAND OFFICE,
WASHINGTON, D. C., *May 19th*, 1873.

United States surveyor general, Olympia, Washington Territory.

SIR: I have examined the survey and field-notes of the claim of the Roman Catholic mission of St. James, at Vancouver, Washington Territory, received with your letter of the 21st. ultimo, which survey, you state, includes all the land occupied by said mission on the 14th. day of August 1848, thus, in the opinion of this
952 office, making said survey in strict conformity with the limits of the claim as set forth in the decision dated March 11, 1872, of the Hon. Secretary of the Interior.

On the day of the receipt of this letter you will notify all the parties in interest of the contents thereof, and allow thirty days from the date of said notice within which to file objections to said survey. At the expiration of said thirty days you will immediately transmit all the papers filed in the case, together with your report thereon, to this office.

Very respectfully, W. W. CURTIS,
Acting Commissioner.

(Endorsed:) No. 18. Interior Department records. Filed by defendants April 6th, 1888. W. Byron Daniels, referee.

Examined.

DEPARTMENT OF THE INTERIOR, W. H. W. D. T.
GENERAL LAND OFFICE, W. D. S.
WASHINGTON, D. C., *March* 16, 1888.

I, S. M. Stockslager, acting Commissioner of the General Land Office, do hereby certify that the annexed copy of a decision of this office, dated August 4th, 1883, addressed to the U. S. surveyor general at Olympia, W. T., in the matter of the St. James mission claim to 640 acres at Vancouver, W. T., is a true and literal exemplification of the original decision in the matter of said mission claim, as the same appears of record in this office.

In testimony whereof I have hereunto subscribed my name,
953 and caused the seal of this office to be affixed, at the city of Washington, on the day and year above written.

[SEAL.] S. M. STOCKSLAGER,
Acting Commissioner of the Gen'l Land Office.

(Decision attached hereto and marked No. 19 is found in vol. 3.)

Examined.

DEPARTMENT OF THE INTERIOR, W. H. W. D. T.
GENERAL LAND OFFICE, W. D. S.
WASHINGTON, D. C., *March 16th*, 1888.

I, S. M. Stockslager, acting Commissioner of the General Land Office, do hereby certify that the annexed copy of a letter from the Commissioner of the General Land Office, to the surveyor general of Washington Territory, dated October 14th, 1883, is a true and literal exemplification from the records of this office.

In testimony whereof, I have hereunto subscribed my name, and caused the seal of this office, to be affixed, at the city of Washington, on the day and year above written.

[SEAL.] S. M. STOCKSLAGER,
Acting Commissioner of the Genl. Land Office.

DEPARTMENT OF THE INTERIOR,
GENERAL LAND OFFICE,
WASHINGTON, D. C., *Oct.* 14, 1883.

U. S. surveyor general, Olympia, W. T.

SIR: I enclose herewith a copy of the decision of this
954 office dated the 4th. of August last, in the matter of the survey made pursuant to the decision of the Hon. Acting Secretary of the Interior, of March 11, 1872, of the Catholic mission claim od St. James, at Vancouver, Washington Territory.

Upon the receipt of this communication you will notify the interested parties that your records and files were, on a certain date, destroyed by fire, and at the same time request them to inform you whether they had, prior to said fire filed in your office any papers with a view to perfect an appeal from the aforesaid decision. If by their responses, you find that any evidence of their action in the matter of such appeal has been destroyed, you will allow them until the first of December next, to replace the papers, but in case said parties are uninjured by the destruction of your office, you will be governed in the matter of any appeal, or interlocutory motion filed with you, by the rules of practice now in force.

I have in this connection to advise you that appeal has been filed here from the aforesaid ruling of August 4, 1883, by the Catholic mission claimants, through their attorneys, Messrs. Curtis & Burdett of this city.

The papers will not however, be submitted to the department until your report in the premises is received.

Respectfully, N. C. McFARLAND,
Commissioner.

(Endorsed:) No. 20. Interior Department records. Filed April 6th, 1888. W. Byron Daniels, referee.

955 Examined.

DEPARTMENT OF THE INTERIOR, W. H. W. D. T.
GENERAL LAND OFFICE, W. D. S.,
WASHINGTON, D. C., *March 16th*, 1888.

I, S. M. Stockslager, acting Commissioner of the General Land Office, do hereby certify that the annexed copy of letter dated October 6th, 1883, from Messrs. Curtis & Burdett, to the Commissioner of the General Land Office, transmitting notice of appeal, &c., in the matter of the "St. James Catholic mission," Vancouver W. T., is a true and literal exemplification from the original on file in this office.

In testimony whereof, I have hereunto subscribed my name, and caused the seal of this office, to be affixed, at the city of Washington, on the day and year above written.

[SEAL.] S. M. STOCKSLAGER,
Acting Commissioner of the General Land Office.

(Letter attached hereto and marked No. 21 is found in vol. 3.)

DEPARTMENT OF THE INTERIOR, D. T.
GENERAL LAND OFFICE, W. D. S.
WASHINGTON, D. C., *March 16th*, 1888.

I, S. M. Stockslager, acting Commissioner of the General Land Office, do hereby certify that the annexed copy of appeal and specifications of error from the decision of this office of August
956 4th, 1883, in the matter of the "St. James mission" claim, to certain lands at Vancouver, Washington, Territory, filed October 6th, 1883, by Curtis and Burdett, attorneys for said mission, is a true and literal exemplification of said appeal and specifications, of error, as the originals thereof appear on file in this office in said case.

In testimony whereof, I have hereunto subscribed my name, and caused the seal of this office to be affixed, at the city of Washington, on the day and year above written.

[SEAL.] S. M. STOCKSLAGER,
Act'g Comm'r of the General Land Office.

(Letter attached hereto and marked No. 22 is found in vol. 3.)

DEPARTMENT OF THE INTERIOR,
GENERAL LAND OFFICE, D. T. W. D. S.
WASHINGTON, D. C., *March 16th*, 1888.

I, S. M. Stockslager, acting Commissioner of the General Land Office, do hereby certify that the annexed copy of field-notes and plat of survey of the "St. James mission" claim to lands at Vancouver, Washington Territory, is a true and literal exemplification of said field-notes and tracing of said plat of survey as the same appears on file in this office, and which formed a part of the surveyor general's report of January 23rd, 1862.

In testimony whereof I have hereunto subscribed my name
957 and caused the seal of this office to be affixed, at the city of Washington, on the day and year above written.

[SEAL.] S. M. STOCKSLAGER,
Acting Commissioner of the General Land Office.

St. James Catholic Mission Claim.

No. —. Notification.

Chains

Containing — acres, in township 2 N., R. 1 E., in sections 22, 26, 27, 34, and 35, surveyed the 18th day of February, 1860—

Commencing on the right bank of the Columbia river and at a post or stake for the southwest corner of said claim, from which a balm 8 in. dia. bears N. 50 degrees E. 85 links distant, a balm 30 in. dia. bears N. 5 degrees W. 47 links distant, N. 25′ 15′ E., on a true line on west boundary of claim; variations 21 degrees 30′ east.

" 3.80 Fence bears N. and S. and enter Gay Hayden's garden.

Chains, 6.50 Gay Hayden's house bears east 50 links dist. and his barn bears west 60 links distant.
" 6.75 Fence bears E. and W. and leave garden.
" 7.00 Street bears E. and W.
" 7.50 Fence bears E. and W. and enter Gay Hayden's garden and Masonic hall bears E. 50 links dist.
" 11.00 Fence and leave garden, bears N. and S.
" 13.50 John Bousois' house bears east 100 links dist.
" 13.75 Street bears E. and W.

958

Chains, 15.50 John Bousois' barn bears east 100 links dist.
" 17.30 Fence bears E. and W.
" 20.75 Fence bears N. and S.
" 60.27 A fir 18 in. diam., marked on the south side with a cross cut through the bark and about three feet long.
" 65.85 To the east boundary of Amos M. Short's claim and the west boundary of the Vancouver town site and Main street bears N. and S.
" 70.59 Intersect the line between sections 22 and 27 532 chains east of the post for quarter-section corner and did not set a post.
" 72.68 To the north boundary of the Vancouver town site and set a post for the corner to fractional sections 22, from which a maple 8 in. diam. bears N. 5 W. 23 links dist., a fir 30 in. diam. bears S. 8 E. 35 links dist., a fir 40 in. diam. bears N. 4 E. 104 links dist.
" 79.50 Set a post for N. W. corner of claim *abd* fractional section 22, from which a *a* fir 30 in. dia. bears S. 26 E. 16 links dist., a fir 12 in. dia. bears N. 8 W. 79 links dist., a fir 30 in. dia. bears N. 28 E. 124 links distant.
" 15.32 South 66 degrees 15′ E. on north boundary of claim. Variation, 21 degrees 30′ E.
" 15.32 To the north boundary of Vancouver town site and set a post for corner to fractional section 22, from which a willow 4 in. diam. bears N. 26 W. 18 links dist.
" 20.00 Intersect the line between sections 22 and 27, 1,247 chains west of the corner to sections 22, 23, 26,

959

and 27; did not set a post.

Chains, 26.30 Intersect the west boundary of the U. S. military reservation.
" 33.64 Intersect the line between sections 26 and 27, 538 chains south of the corner, to sections 22, 23, 26, and 27; did not set a post.
" 80.00 Set a post for the N. E. corner of this claim, from which a fir 18 in. diam. bears N. 30 west 30 links distant, a fir 12 in. dia. bears S. 370 degrees east

62 links dist., a dogwood 8 in. dia. bears S. 45 degrees west 79 links dist.

Chains, 62.16 S. 25 degrees 15′ W. on true line and east boundary of claim. Variation, 21 degrees 30′ east.

" 62.16 Intersect the line between sections 26 and 35, 16.19 chains east of post for corner to sections 26, 27, 34, and 35, this line being within the military reserve; did not set a post.

" 78.69 Intersect the right bank of the Columbia river and to a stake *det* for the S. E. corner of this claim, from which a cottonwood 10 in. diam. bears S. 64 degrees 45′ E. 180 links distant, no other tree convenient.

N. W. with the meanders of the Columbia river, on the south boundary of claim, as follows:

Courses.	Distances.	Remarks.
N. 69 W.	9.33	To post for meander corner to fractional sections 34 and 35.

960 Thence in section 34 as follows:

N. 75 W. 23.59.

N. 67 degrees 45′ W. 10.00 at 160 chains, the Government wharf; N. 55 W. 250 at 50 links, the south end of the Government warehouse, and at 2.25 chains leave Government wharf, and at 2.50 chains the post for meander cor. to fractional sections 27 and 34.

Courses.	Distances.	Thence in section 27 as follows:
N. 61.45 W.	3.15	To Sumner Barker's wharf.
N. 60 W.	6.00	At 2.25 chains leave Sumner Barker's wharf, and at 3.20 chains Camp & Co. wharf, and at 6.00 chains leave the same.
N. 43 degrees 30 W.	3.00	At 50 links the Alta house bears N. 45 E. 25 links distant.
N. 66 degrees W.	22.31	To the S. W. corner of this claim and place of beginning.

SURVEYOR GENERAL'S OFFICE,
OLYMPIA, W. T., *January* 21*st*, 1862.

I hereby certify that the foregoing transcript of the field-notes of the survey of the St. James Catholic mission claim in the Territory of Washington has been correctly copied from the original field-notes on file in this office.

ANSON G. HENRY,
Sur. Gen'l, W. T.

(Endorsed:) No. 23. Interior Department records. Filed by defendants April 6th, 1888. W. Byron Daniels, referee.

961 (The above refference to plat of St. James Catholic mission claim is hereto attached.) (Endorsed:) No. 23. F. 95284.)

(Here follows map marked p. 961*a*.)

DEPARTMENT OF THE INTERIOR,
GENERAL LAND OFFICE, D. T.
WASHINGTON, D. C., *March 16th*, 1888.

I, S. M. Stockslager, acting Commissioner of the General Land Office, do hereby certify that the annexed copy of a document transmitted to this office by the surveyor general of Washington Territory, with his letter of April 29th, 1863, pursuant to telegraphic instructions given him by this office under date of April 13th, 1863, is a true and literal exemplification of said document, as the same appears on file in this office.

In testimony whereof, I have hereunto subscribed my name, and caused the seal of this office to be affixed, at the city of Washington, on the day and year above written.

[SEAL.]

S. M. STOCKSLAGER,
Acting Commissioner of the General Land Office.

G. 19262.

Amos M. Short's Land Claim.

Amos M. Short claims 640 acres of land in Vancouver county, situated as follows, to wit: Commencing at a balm of Gilead tree at the S. W. corner claim, thence running N. one mile with his line to the N. W. corner, thence W. one mile to a marked tree, thence S. one mile to the river at a cottonwood tree marked A. M. S.,
962 thence up the bank of the river to the place of beginning, which he intends holding without personal occupancy.

Attest: FREDC. PRIGG, *Recorder.*

Dated August 13th, 1846.

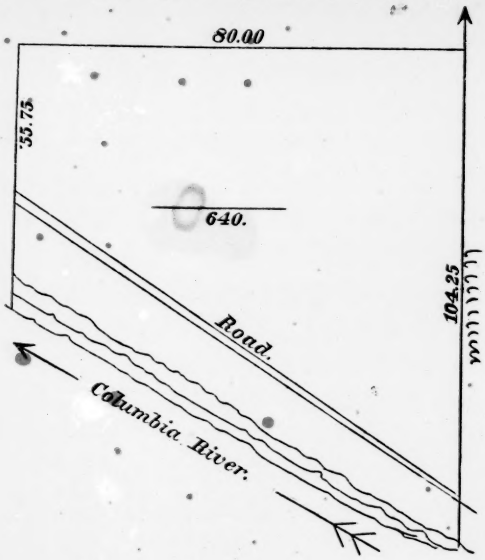
I hereby certify that the above is a true copy of A. M. Short's claim, as recorded at page 37, Book No. 3, in the recorder's office in Oregon City.

August 2nd, 1847.

Attest:

(Signed) THOMAS MAGRUDER, *Recorder.*

1 chain equals 4 poles or 100 links.



Surveyed for Amos M. Short his claim of 640 acres of land, com-c'g at a balm of Gilead tree ab't 16 in. dia. on the bank of the Columbia river, run'g due north 104.25 chains to a red fir tree 4 in. dia., wits. another R. fir 12 in. dia., N. 51 degrees W. 14 links (Fort Vancouver, James Douglas E, & one claimed by W. M. Card).

Thence due W. 80.00 ch's to a red fir tree 9 in. dia., wits. tree red fir (10 in. dia., S. 45 E. 4 links, 8 in. dia., N. 28½ W. 1 link), thence due south 55.75 ch's to a balm of Gillard tree 40 in. dia., marked A. M. S., on the bank of the Columbia river, pits Hawthorne tree 10 in. dia., N. 350 W. 24 links, thence up the bank of the Columbia river, the gen'l course of which is here S. 31¼ degrees E. 93.58 ch's to the place of beginning.

963

SAM'L D. SCROWDER.

Vancouver county, June 10th, 1848.

The above is a correction of a former survey only made by the same claimant and recorded by him August 13th, A. D. 1846.

August 13th, A. D. 1846.

(Signed) S. D. SCOWDER, 10-6-'48.

Recorded July 4th, 1850.

R. H. LANSDALE,
Clerk Probate and Recorder.

TERRITORY OF WASHINGTON, } ss:
County of Clarke, }

I, P. Ahern, county auditor and recorder of said county, do hereby certify that the foregoing is a true copy of the records of Clarke county, so far as it appears in relation to the aforesaid land claim.

In witness whereof I have hereunto set my hand and private seal, there being no official seal provided, this the twenty-third day of April, A. D. 1860.

P. AHERN, [SEAL.]
County Auditor, and by Law Recorder of said County.

(Endorsed:) Plat and survey of A. M. Short's claim as shown by the records of Clarke county, W. T.

(Endorsed:) No. 24. Interior Department records. Filed by defendants April 6th, 1888. W. Byron Daniels, referee.

964 DEPARTMENT OF THE INTERIOR,
GENERAL LAND OFFICE, D. T. W. D. S.,
WASHINGTON, D. C., *March 16th*, 1888.

I, S. M. Stockslager, acting Commissioner of the General Land Office, do hereby certify that the annexed copy of a document transmitted to this office by the surveyor general of Washington Territory, with his letter of April 29, 1863, pursuant to telegraphis instructions given him by this office under date of April 13, 1863, is a true and literal exemplification of said document as the same appears on file in this office.

In testimony whereof I have hereunto subscribed my name and caused the seal of this office to be affixed, at the city of Washington, on the day and year above written.

[SEAL.] S. M. STOCKSLAGER,
Acting Commissioner of the General Land Office.

G. 19262.

City of Vancouver, Clark county, W. T.

Field Notes.

Station and military line marked A. Bl. No. 23 N. W. corner east 33.09 ft. corner, east 106.00 feet N. E. corner, Bl. No. 22 E. 104.06 ft. corner No. E. Bl. No. 21, E. 60.00 ft. corner, N. E. Bl. No. 20, E. 140 ft. corner N. E. Bl. No. 23, Meridian S. 102.03 feet, corner, E. 30.00 ft. corner S. W. E. 103.06 feet, corner Bl. No. 22 E. 103.00 feet S. E. cor. Bl. No. 21 E. 6.00 feet, No. 5.00 ft. E. 54.00 feet, S. E. corner Bl. No. 20 E. 106.00 feet, S. E. corner Meridian S. Bl. No. 18, 145.00 feet, corner E. at var. 22 degrees 37 feet corner E. 157 feet, corner S. E. No. 20 feet corner, east var. 21 degrees, 50.00 feet corner S. E.
965 Bl. No. 19, N. 18.00 feet corner, Evar. 16 degrees 134.00 feet corner, S. E. block No. 17 on Meridian Line, S. 72.00 feet, corner, E. 38.00 feet, corner, E. 148.00 feet, corner S. E. Bl. No. 16 S. 14.00 feet, corner S. W. E. at 17 degrees Var. 140.00 ft. corner, S. E. Bl. No. 14 on Meridian Line 63.00 feet, corner E. 39.00 feet corner

E. 21, 137.00 feet, corner S. E. Bl. No. 13, on Meridian Line 190, feet, corner, E. 38.00 feet E. 18, 121.00 feet corner S. E. Bl. No. 12, N. 116.00 feet, E. 16, 112.00 feet N. E. corner S. 12.00 feet, corner E. 41.50 feet S. E. corner Bl. No. 9, on Meridian, S. 131.00 feet corner E. 25.00 feet, corner E. at 17 degrees 47.00 feet, corner S. E. Bl. No. 8 on Meridian S. 56.00 feet, corner E. at 18 degrees 20 feet house corner E. 42.00 feet S. E. corner Bl. No. 7, on Meridian S. 42.06 feet corner E. 24.00 feet, corner house, E. at 16 degrees 41.09 feet corner S. E. Bl. No. 10, E. 131.00 feet to H. S. Res. Line, N. at 70 degrees 96 feet corner to Bl. No. 11, S. E. corner, W. at 8 degrees 33 feet corner N. to Bl. No. 12, Batemans St. on Meridian Line 38 feet E. 16 degrees 33 feet to Bl. No. 6 degrees N. to corner, house, E. 20 degrees 20.09 feet, corner N. E. thence St. E. 132.00 feet, corner Bl. No. 6 on Meridian 50 feet, corner, E. 2,406 feet, corner, Bl. No. 6 on Meridian S. 23.09 feet corner E. 22.00 feet, corner, Bl. No. 5 on Meridian, S. 56 feet, S. W. corner E. at 8 degrees 30 to M. Res. Line Bl. No. 4, on Meridian S. 44.06 corner E. at 13 degrees 28.00 feet fence thence to M. R. Line, Bl. No. 3 on Meridian S. 42.04 feet, corner E. to M. R. Line, Bl. No. 2, on Meridian, S. 67.00 feet, corner to M. R. Line Bl. No. 2 on Meridian, S. 26.06 feet E. to M. R. Line Bl. No. 2 on Meridian, S. 22.04
966 feet, E. at 18 degrees to M. R. Line, Bl. No. 1 on Meridian S. 36.06 feet corner, E. to M. R. line, Public on Meridian, S. 71.06 feet to U. S. post, S. W. corner of the M. Reserve from Station "A" (Bl. No. 23, N. W. corner on the Meridian Line, North 80 feet corner 202.00 feet corner, 81.00 feet, corner 201.00 feet corner 82 feet, corner 202.00 feet, corner 80 feet, corner 201. feet, corner Note this line runs E. from N. W. corner od Bl. No. 35 to Military line at var. 19 degrees 30 E. corner, is at N. W. corner of Bl. No. 32 S. at No. 3 Mil. line is 2888.00 feet further North on Parallel Line excess. Thence on Meridian No. 80.00 feet corner, 200.00 feet corner 80.00 feet corner 200.00 corner, 80.00 feet corner 200.00 feet, Corner 80 feet corner 200.00 ft. corner 80 feet corner, 200.00 feet corner 80, feet, corner 200.00 feet corner 80 feet, corner 200.00 feet, corner 80, feet, corner 200.00 feet, corner 80 feet, corner 200.00 feet, corner 80 feet corner 200.00 feet, corner, 80 feet corner Note the Meridian Line begins at the U. S. S. W. corner post as indicated in plat, thence runs northerly 30.00 feet east of Mrs. Short's East line, and paral-ell to it, 46.00 feet, E. and paral-ell to Meridian Line as here indicated in plat, is the east line of street as surveyed by me.

Surveyed in May, 1858, by—

(Signed) LEVI FARNSWORTH,
City Surveyor.

Recorded this 10th day of June, A. D. 1859.

P. AHERN,
County Auditor & Recorder.

(See plat of survey hereto attached.)

(Here follows diagram marked p. 966½.)

967 TERRITORY OF WASHINGTON, } ss:
County of Clarke, }

I, P. Ahern, county auditor in and for the aforesaid county, do hereby certify that the foregoing and annexed plat of the survey authorized by the city council of the city of Vancouver, W. T., is a true copy of the original now on record in my office and as recorded in Book "C," pages 53 and 54 of said book, and of the records of the aforesaid county.

I witness whereof I have hereunto set my hand and private seal, there being no official seal provided, this the 1st day of May, A. D. 1860.

P. AHERN, [SEAL.]
County Auditor and by Law Recorder of Said County, W. T.

(Endorsed:) Plat of survey of the city of Vancouver.

Papers of city of Vancouver.

(Endorsed:) No. 25. Interior Department records filed by defendants April 6th, 1888. W. Byron Daniels, referee.

DEPARTMENT OF THE INTERIOR, W. H. W. D. T.
GENERAL LAND OFFICE, W. D. S.
WASHINGTON, D. C., *March 16th*, 1888.

I, S. M. Stockslager, acting Commissioner of the General Land Office, do hereby certify that the annexed copy of a document transmitted to this office by the surveyor general of Washington Territory, with his letter of April 29, 1863, pursuant to telegraphic
968 instructions given him by this office under date of April 13, 1863, is a true and literal exemplification of said document as the same appears on file in this office.

In testimony whereof I have hereunto subscribed my name and caused the seal of this office to be affixed, at the city of Washington, on the day and year above written.
[SEAL.]

S. M. STOCKSLAGER,
Acting Commissioner of the General Land Office.

G. 19262.

Probate Court of Clarke County, Oregon Territory, July Session, A. D. 1850.

County-Seat.

The Congress of the United States having by an act of that body granted to each county in every new State and Territory one quarter section of land for purposes of a county-seat, said act being by an act of Congress organising a Territorial government for Oregon Territory extended over said Territory, and the Legislative Assembly of said Territory having authorized the probate court in said Territory to locate said land:

This court does now proceed to locate a quarter section of land to

be held by preemption for the county-seat of Clarke county, in said Territory, as follows, to wit:

Commencing at a Balm of Gilead tree on the north bank of the Clumbia riber, marked A. M. S., being the commencing point of Amos M. Short's land claim, thence running due north along and with the east line of said Amos M. Short's claim one hun-
969 dred and sixty rods, thence due east one hundred and sixty rods, thence due south to the Columbia river, thence along the bank of said river to the place of beginning; and it is ordered by the court that the clerk of this court shall record the above claim of land in the books in which land claims are recorded in said county.

July 3rd, 1850.

(Signed) AMOS M. SHORT,
JOHN C. ALLMAN,
WILLIAM GOODWIN,
Probate Judges.

County-Seat Claim.

The court, on yesterday having located and recorded one hundred and sixty acres of land for the purposes of a county-seat, do now, in the name and for the use of Clarke county, take possession of said land and all tenements, houses, and enclosures on said land, except such tenements, houses, and enclosures as may be rightfully held and possessed by the Hudson Bay Company; and, for the purpose of more effectually securing the possession of said land and the tenements, houses, and enclosures aforesaid, the county does now constitute and appoint R. H. Lansdale, clerk of probate, the agent of the county to take possession of said land and appurtenances, with the exceptions above mentioned; and said agent may cause such land to be surveyed by some competent surveyor running the lines of said land as described in the original claim entered among the proceedings of this court; cause so much of said land as
970 lies between the west lines of said land and the Hudson's Bay Companie's field and north of the Columbia river to the main road running east and west in front of Catholic church to be surveyed and laid off into suitable town lots, streets, and alleys and squares and cause the same to be platted; and he shall report his proceedings under this order to this court at its next session.

Wednesday, July 3rd, 1850.

(Signed) AMOS M. SHORT,
JOHN C. ALLMAN,
WILLIAM GOODWIN,
Judges of Probate.

Probate Court of Clarke County, Oregon Territory. In Vacation, July 3rd, A. D. 1850.

Certificate of Record of County-Seat Land Claim.

I, Richard S. Lansdale, clerk of probate in and for the county of Clarke, Oregon Territory, do certify that in obedience to an order of

the probate court of said county entered on the 2nd day of its July session, 1850, I have recorded in page 1, Book "A" of the Records of Land Claims, in said court the following land claim for the county-seat of said county: Commencing at a Balm of Gliead tree on the north bank of the Columbia river marked A. M. S., being the commencing point of Amos M. Short's land claim, the southeast corner of said claim; thence running due north along with the east line of said Amos M. Short's claim one hundred and sixty rods; thence due east one hundred and sixty rods; thence due south to the Columbia river; thence along the bank of said river to the place of beginning.

(Signed) R. H. LANSDALE,
Clerk of Probate and Recorder.

971 SEPTEMBER 4TH, 1850.

County-Seat Claim and County-Seat Report of Probate Clerk and Co. Agent.

R. H.Lansdale, appointed at the last session of this court to take possession of county-seat claim and lay out part of same into town lots, now report- as follows, to wit:

To the hon. judges of probate of Clarke county at their September session, 1850:

The undersigned, appointed at your July session in this year county agent to take possession of the county-seat claim and lay out a part of said claim into town lots, to report to this session of your court, would report that agreeable to your authority he employed Mr. Geo. P. Porter to survey and plat that part of the claim authorized to be laid out.

Which plat and survey I now report and present ot the court as part of this report.

Sept. 4th, 1850.

Respectfully,

(Signed) R. H. LANSDALE,
County Agent,

Which report is accepted and approved by the court.

And the county clerk is directed to cause said plat to be recorded in the records of Clarke county. It is ordered by the court that R. H. Lansdale, county agent, do offer for sale the lots of odd numbers in Columbia City on Monday, the 30th day of September, instant, except such lots and fractional lots as have enclosures on them, at the minimum price of twenty-five dollars for full lots and fractional lots, giving notice of said sale in the Oregon Spectator,
972 and also by written advertisements.

Sept. 4th, A. D. 1850.

(Signed) AMOS M. SHORT,
JOHN C. ALLMAN,
WILLIAM GOODWIN,
Judges of Probate.

Probate Court of Clarke County.

OREGON TERRITORY, *Dec. 4th*, 1850.

County-Seat Claim.

Amos M. Short is authorized to act in procuring to be printed circulars and forward to the proper authority petitions for restricting the military reserve in Clarke county to a quarter section, so as to leave the county-seat claim free and uncovered by said reserve. (Signed) Dec. 4th, 1850.

(Signed) AMOS M. SHORT,
JOHN C. ALLMAN,
WILLIAM GOODWIN,
Judges of Probate.

Record of the Plat, Surveyor's Field-Notes, and Official Acknowledgements and Descriptions of (Columbia City) Oregon Territory.

The boundaries of said survey are as follows, viz:

Commencing at a tree (called Balm of Gill-ard) on the bank of the Columbia river, thence running north 1,240 feet to a stake, thence east 1,160 feet to a stake, thence south 1,680 feet to a stake, and from theire south to the bank of the Columbia river, 100 feet more or less, and thence following the meandering of said river to the place of beginning.

The said north line running along the line of A. M. Short's claim, said survey containing 37 acres, 2 roods, and 27 perches, more or less.

973 Aug. 26th, 1850.

(Signed) GEO. P. PORTER,
Surveyor.

TERRITORY OF OREGON, } *ss:*
Clarke County, }

Whereas at the July session of the probate judges of said county Richard H. Lansdale, clerk of probate in said county, was appointed county ag't to take possession of the land claim of said county for the purpose of a county-seat and to lay out a certain part of said county-seat claim into town lots for the use of said county: Now, therefore, know all men by these presents that I, the said Richard H. Lansdale, having procured a surveyor, did on the 26th day of August, A. D. 1850, proceed to lay out said portion of land into town lots according to the accompanying town plat, which said *which said* judges of probate at their September session, 1850, did approve and order the same to be recorded, which is done with the following description of said town plat, to wit:

The Survey of Columbia City, County-Seat of Clark Co.

Commenc- at the southwest corner of the county-seat claim at a Balm of Gilead tree marked as A. M. S. on the north bank of the Columbia river, thence north 120 feet to a stake, thence east 40

feet to a stake for meridian street, thence north four blocks and four streets 1,120 feet to a stake, thence east on the north side of Church street wi-th of four blocks and four streets 1,120 feet to a stake, thence south the width of six blocks and six streets on the east side
974 of Great North street 1,680 feet to a stake, and thence south to the Columbia ri*b*er, 100 feet more or less, all the block*e* except Nos. 19, 20, 21 and 22 are full, and contain 8 full lots, 50 by 92 feet in size, and an alley 16 feet wide running east and west through the blocks. Block No. 19 has full lots 3 and 4, and fractional lots 1, 23 A 6. Block No. 20 has fractional lots No. 1. Block number 21 has full lots No. 3, 4, and 5, and fractional lots 1, 2 and 6. Blac*k* No. 22 same as block number 20. All streets 80 feet wide except Meridian 40 feet, and Columbia 100 feet more or less. The straight line north of Columbia street determines the size of fractional lots and it.

Witness Richard H. Lansdale, clerk of probate & agent, and his private seal.

(Signed) RICHARD H. LANSDALE. [SEAL.]

(Plat of Columbia City above referred to is hereto attached.)

(Here follows diagram marked p. 974*a*.)

TERRITORY OF WASHINGTON, } ss:
County of Clarke, }

I, P. Ahern, county auditor in and for said county, do hereby certify that the foregoing and annexed documents are true copies on the minutes of the probate court of Clarke county in relation to the county claim and the records of said county in which the plat and description of the town site was recorded.

In witness whereof I have hereunto set my hand and private seal, there being no official seal provided, this the 26th day of April, A. D. 1860.

975 P. AHERN,
County Auditor of said County.

(Endorsed:) Proceedings of probate court of Clarke Co. as to county-seat, Columbia City.

(Endorsed:) No. 26. Interior Department records. Filed by defendants April 6th, 1888. W. Byron Daniels, referee.

DEPARTMENT OF THE INTERIOR, D. T.
GENERAL LAND OFFICE, W. D. S.
WASHINGTON, D. C., *March 16th*, 1888.

I, S. M. Stockslager, acting Commissioner of the General Land Office, do hereby certify that the annexed copy of a document in the matter of the "St. James mission" and others, claimants to certain lands at Vancouver, Washington Territory, transmitted to this office by the surveyor general of said Territory, with his letter of April 29th, 1863 pursuant to telegraphis instructions given by this office

April 13th, 1863, is a true and literal exemplification of said document, as the original thereof appears on file in this office.

In testimony whereof I have hereunto subscribed my name, and caused the seal of this office to be affixed, at the city of Washington, on the day and year above written.

[SEAL.] S. M. STOCKSLAGER,
Acting Commissioner of the General Land Office.

(Deposition of L. N. Blanchett, archbishop of Oregon City, and hereto attached, is found in vol. 4) 447.

976 EXHIBIT "D" OF ARCHBISHOP BLANCHET TO DEPOSITION.

Recapitulation Mission Account.

1845.				DR.			CR.		
To balance due as p'r account handed Mr. Blanchet March, 1844				270	11	4			
To amount of supplies on the foll face *to* as p'r detailed accounts herewith, viz:									
No. 1.	Wallamette mission	346	8 9						
" 2.	Wallamette Falls mission	43	6 10						
" 3.	Vancouver mission	8	1 3						
" 4.	Payment to Indians form Indian shop	30	6 8						
				428	3	6			
" 16.	New Caledonia mission				13	1			
" 5.	Olive Lapien	22	11 4						
" 6.	Felix Langeoin	8	6 5						
" 7.	Ilospey Iobin	14	17 8						
" 8.	Opernier	18	17 7						
" 9.	Pierrie Groslin	5	4 6						
" 10.	Mahog	10	8 6						
" 11.	Nabomo	16	17 4						
" 12.	Niho	16	14 9						
" 13.	Augustin Garrant	16	8 4						
" 14.	Andre St. Martin	7	11 5						
				137	17	10			
977									
By amount at credit of Cowlitz mission account No. 15							13	1	5
By amount remitted from Canada by I. A. Largevan to the Hudson's Bay house, London, for acc't of the mission							164	7	9
By am't allowed the mission by the H. B. Company							100		
				837	5	9	277	9	2
Less c. column				277	9	2			
Balance now due				£559	16	7			

E. E.
F. Vancouver, 11th February, 1845.

Verified by A. McKinley as the handwriting of Dugold McTavish, referred to in cross-interrogatory No. 11, April 25th, 1860.

I. TILTON, *S. G., W. T.*

[Endorsed:] Exhibit "D" referred to in deposition of Archbishop Blanchet. May 2, 1860, Vancouver, W. T. I. Tilton, S. gen., W. T., 1845.

Recapitulation.

1. Wallamette mission	£346	8	9
2. Wallamette Fa. mis'n	43	6	10
3. Vancouver mission	8	1	3
Payment Indian shop, Fort Vancouver	30	6	8

The end of vol. No. 10.

978 CATHOLIC BISHOP OF NESQUALLY *vs.* UNITED STATES *et al.* } Referee's Report, vol. 11. Defense.

Interior Department record, Exhibit- 28 to 37, both inclusive.

Filed November 12th, 1888.

A. REEVES AYRES, *Clerk*,
By W. F. JOHNSON, *Deputy*.

979 DEPARTMENT OF THE INTERIOR, D. T.,
GENERAL LAND OFFICE, W. D. S.
WASHINGTON, D. C., *March 16th*, 1888.

I, S. M. Stockslager, acting Commissioner of the General Land Office, do hereby certify that the annexed copy of a document in the matter of the St. James mission and others, claimants to certain lands at Vancouver, Washington Territory, transmitted to this office by the surveyor of said Territory, with his letter of April 29th, 1863, pursuant to telegraphic instructions given by this office April 13th, 1863, is a true and literal exemplification of said document as the original thereof appears on file in this office.

In testimony whereof I have hereunto subscribed my name and caused the seal of this office to be affixed, at the city of Washington, on the day and year above written.

S. M. STOCKSLAGER,
[SEAL.] *Acting Commissioner of the General Land Office.*

980 G. 19262. TUESDAY, *Apr. 24th*, 1860.

FORBES BARCLAY, being sworn on behalf of the parties opposed to the mission claim of the Mission of St. James, says in reply to interrogations propounded by A. HOLBROOK:

Int. 1. Please state your residence and occupation.

Ans. I reside at Oregon City, Oregon, and am a physician.

Int. 2. State whether at any time you resided at Vancouver; if so, when and in what capacity?

Ans. I came to Vancouver in March, 1840, and continued here till 1850 as physician and surgeon to the Hudson's Bay Company.

Int. 3. During that time did you know anything of the St. James mission, so called?

Ans. I never heard of any mission of that name.

Int. 4. Did you know of any mission by any name at Vancouver during that period?

Ans. I did not; I never heard of any name to any mission there.

Int. 5. During that time were there any clergymen or priests at Vancouver? If so, state who.

Ans. Archbishop Blanchet, Bishop Demers, Mr. Langlois, Mr. Balduc, Mr. Delevand, Father Devos, Father Nobili, Father Accolti, Father De Smet, occasionally Father Deban, and there were some others, whose names I forget, who stopped on their way to the upper country.

Int. 6. In what capacity were these priests or any of them acting?

Ans. The Catholic priests Blanchet and Demers were always acting as chaplains to the Hudson's Bay Co.; I always understood them as such, and knew that they were so.

981 Int. 7. Where did *the* live and how were they supported?

Ans. They received a salary from the Hudson's Bay Co. and lived inside the fort of the company.

Int. 8. By whom was their table furnished?

Ans. By the Hudson's Bay Company.

Int. 9. State whether they lived in any manner different from other persons in the company's employment?

Ans. They lived upon the company's mess, and they received at their rooms their food from the company's kitchen. Sometimes they messed at the company's table with the other gentlemen in the company's employment.

Int. 10. Where was religious service held by them?

Ans. It was held inside the fort till some time in 1846. I think then it was held at a place built by Mr. Douglass, the chief factor in charge of the H. Bay Co.'s fort at Vancouver.

Int. 11. State where that building was.

Ans. At the same place where the present church is; perhaps 150 or 200 yards from the pickits of the Co.

Int. 12. Did Mr. Douglass erect any other buildings besides the one in which worship was held?

Ans. He erected a small building outside of it, adjacent—a sort of room or vestry; he also built two school-houses a little distance from it.

Int. 13. In Aug., 1848, were there any other buildings except those you have spoken of as erected by Mr. Douglas?

Ans. There were none.

Int. 14. State whether there were any to the time of your leaving, in 1850?

982 Ans. There were none.

Int. 15. Who chiefly attended the services of the clergymen referred to?

Ans. Chiefly Canadians; the preaching was in French.

Int. 16. State whether or not these Canadians were persons in the company's service.

Ans. They were all in the company's service; their families also attended; all who attended were so, unless there might chance to be a stranger.

Int. 17. Who was at Vancouver as priests in Aug., 1848?

Ans. Mr. Delevand.

Int. 18. Was he at that time actually occupying any place as a missionary station, to your knowledge?

(Objected to by Mr. Farrar for St. James mission.)

Ans. I looked upon him as a chaplain; that is all.

(Objected to by Mr. Farrar.)

Int. 19. Was Vancouver or any part of the land in dispute then occupied as a missionary station among the Indian tribes, to your knowledge?

Ans. No, sir; only servants' wives, who were Indian women, came inside the premises to be instructed.

Int. 20. During your residence at Vancouver did yo- ever hear any of the priests assert any claim to the land in dispute or any part of it?

Ans. No; I did not.

Int. 21. When did you first know or hear of such a claim?

Ans. In 1852 or 1853.

Int. 22. What was your intimacy with Delevand and other priests?

983 Ans. I was well acquainted with them, met them every day, though not familiarly acquainted with them. I was more acquainted with Delevand than any one else.

Int. 23. State whether you knew of the church or other buildings spoken of having been used for any other than religious purposes.

Ans. The small house or vestry was rented in 1848 or 1849 to Lt. Denman.

Int. 24. Do you know who rented it or received pay for it?

Ans. Mr. Ogden, chief factor of the H. B. Co., in charge at Vancouver.

Int. 25. Have you any interest in the land in dispute?

Ans. None at all.

Int. 26. State whether the present church is the one originally erected by Mr. Douglass.

Ans. It is, except it has been repaired or improved since.

Cross-examination by Mr. FARRAR, att'y for St. James mission:

Int. 1. Are you or have you at any time been a member of or partner in the Hudson Bay Company?

Ans. I never was a partner or member of the company. I was merely a servant.

Int. 2. During the time you were in the service of the company had you access to the business books and papers of the company at Vancouver?

Ans. I had to the books.

Int. 3. Did you have access to the correspondence of the
984 company; and, if so, were you in the habit of reading and examining the same?

Ans. I had not, and did not read or examine the same.

Int. 4. Who was in charge of the company's post at Vancouver when you came there?

Ans. Dr. McLaughlin and Mr. Douglass—both of them.

Int. 5. State their Christian names.

Ans. John McLaughlin, chief factor Hudson Bay Company, and James Douglass, chief factor Hudson Bay Co.

Int. 6. Were they equal in authority?

Ans. They were. I do not know how they were considered at home. Dr. McLaughlin was considered the superior—as the man in charge.

Int. 7. How long did Dr. McLaughlin remain in charge of the post?

Ans. I think he left in A. D. 1845; it may have been in 1844?

Int. 8. What priests were at Vancouver when you first came there?

Ans. Mr. Demers was there.

Int. 9. How long did he remain?

Ans. I don't recollect really; he was off and on. There was always some priest there.

Int. 10. When was Mr. Blanchet there for the first — after you entered the company's service?

Ans. Some time in A. D. 1840.

Int. 11. Do you or not know whether he was at that time the vicar general of Oregon?

Ans. I don't know anything about that. I don't know in what capacity he was. I only knew them as chaplains of the Hudson Bay Company. I knew they had a mission on the Willamette.

985 Int. 12. When did Mr. Delavand come to Vancouver?

Ans. In A. D. 1848.

Int. 13. How long did he remain?

Ans. He was there when I left Vancouver. I don't know how long he remained after I left.

Int. 14. What were the dimentions of the church building erected by Mr. Douglass in 1846?

Ans. I never measured them; I have no idea; it is rather a small building.

Int. 15. Are you or not acquainted with the handwriting of James Douglass, chief factor?

Ans. I am, sir.

(The records of the church as to dedication—the signature of James Douglass as witness—shown to witness and identified by him as the genuine signature of James Douglass; the same marked by surveyor general.)

Int. 16. Are you acquainted with the handwriting of A. Barclay, secretary in London of the Hudson Bay Company?

Ans. I am, sir.

Int. 17. Examine the four letters now handed to you and tell me if they were signed by Mr. Barclay, the secretary of the H. B. Co., and if they are his genuine signature.

Ans. to 17. They are, sir.

(The signatures to these letters are marked by the surveyor general as admitted by the contestants.)

Int. 18. Are you or not acquainted with Joseph Signety, Catholic bishop of Quebec?

Ans. I am not.

986 Int. 19. In your direct examination you have stated that Messrs. Blanchet and Demers were paid a salary by the H. B. Co. as chaplains; were they both paid at the same time?

Ans. No; I don't know that. Whatever money was paid by the company I understood was paid to the credit of the Willamette mission.

Int. 20. Did you understand that the company had two chaplains at one and the same time?

Ans. No.

Int. 21. State what you understood to be the salary or amount of money paid to the Willamette mission.

Ans. If I mistake not, I think it was five hundred pounds (500) or five hundred dollars per year.

Int. 22. When did you understand was the time from whence this money was paid?

Ans. From the time, I presume, the priests came into the country.

Int. 23. Do you understand that this sum of money was paid and has been up to the present year?

Ans. I believe it is. I understood from Mr. McLaughlin before he died that the company paid a salary then. Dr. McLaughlin died in September, A. D. 1857.

Int. 24. Do you not know that this money you speak about was and is paid to the present archbishop of Oregon City?

Ans. No; I don't know anything about that.

Int. 25. Did the Hudson Bay Company ever charge any person or persons whomsoever for board while at the Vancouver post?

Ans. Never, to my knowledge.

Int. 26. In your direct examination you have stated that
987 Mr. Douglass erected a small building outside of the church; was that small building under the same roof as the church?

Ans. No; it was not.

Int. 27. Was that small building when erected attached to the church building?

Ans. I think it was.

Int. 28. How large was this small building? Had it more than one room?

Ans. It had but one room. I should think it was 15 feet by twelve (15 x 12 ft.).

Int. 29. Was that small building ever used as a vestry?

Ans. I don't know, sir; really.

Int. 29. Is the small building now standing?

Ans. Yes, sir; I see it there yet. It may be improved. I passed by there this morning, and it looked to me like the small building.

Int. 30. Did you ever know of the church building being used for any other than religious purposes?

Ans. No; never.

Int. 31. Has the church building been enlarged; and, if so, when?

Ans. It looks to me larger. I don't know when it was done. It is very much improved.

Int. 30. Was not Vancouver the headquarters of the Hudson Bay Co. between the Pacific ocean and the Rocky mountains during the time you was in the company's service?

Ans. Yes, sir.

Int. 31. Were there not usually large numbers of Indians at or near the company's fort, at Vancouver?

988 Ans. They were more numerous then than now.

Int. 32. Did not Indians from different tribes and from long distances frequently come to or about that fort?

Ans. Yes, sir; they did.

Int. 33. Do you mean to be understood that the priests at Vancouver did not administer instruction and the rites of religion to any but those belonging to the company?

Ans. Oh, no; they administered to all the Indians about or who came to Vancouver who expressed a desire to be instructed.

Int. 34. Was not that the condition of affairs in August, A. D. 1848?

Ans. I forget; I don't think there were many Indians about then. Many had died off. I presume they were instructed the same then as before. (The signature of the witness admitted to be genuine as signed to record of baptism marked by surveyor general.)

Int. 35. Do you know Major Simonson, of the U. S. Army?

Ans. Not that I know of. I was not acquainted with him.

Int. 36. Do you know of your own knowledge that the Hudson's Bay Company rented the small building near the church to Lt. Denman, or that the company collected therefor, or is your statement founded upon what you have been told?

Ans. Mr. Ogden told me so.

Int. 37. Did you at any time—and, if so, when—get from the church building any lumber?

Ans. I recollect Mr. Delavand in 1849 claimed that I had taken five hundred feet of lumber from the church building which belonged to the church. I said I understood it belonged to the H. B. Co. I never paid him for it.

989 Int. 38. Did you not give your note to Mr. Delevand for that lumber?

Ans. I don't recollect that I did. Mr. Ogden said that I had no right to pay him for it.

(The last part of the answer objected to by Mr. Farrar.)

Int. 39. Did you ever give your note for the payment of money to Mr. Delevand; and, if so, when and for what amount?

Ans. I don't recollect anything about it.

Interrogatories by Mr. LOGAN, att'y for heirs & widow of A. M. Short:

Int. 1. Is Mr. Ogden living or not? When did he die?

Ans. He died in October, 1855.

Int. 2. You speak of Indians frequently coming to Vancouver. For what purpose?

Ans. Generally for trading furs, game, and other things.

Int. 3. Did you know A. M. Short? If so, when & how long?

Ans. I knew him from his coming to Oregon, in 1844, till he was drowned, in 1852.

Int. 4. When did he settle on the land claim now occupied by his widow, and how long did he reside on and cultivate that claim?

Ans. He began as a tresspassor on the rights of H. B. Co. in 1846, in the fall or spring of 1847, soon after the treaty, and continued a short time only, when the company turned him off. In a few months he came back, and was put off again. He returned the third time in 1847, and continued then till his death to reside off and on; made improvements and cultivated the land.

990 Int. 5. Was his family with him on the claim till his death?

Ans. Yes.

Int. 6. Were Protestant ministers received and treated with same attention and kindness at Vancouver by the H. B. Co. as the Catholic clergy?

Ans. Yes.

Int. 7. When did you first hear of the St. James Catholic mission at Vancouver?

Ans. Never till I came here just now, to my knowledge.

Int. 8. Did you ever hear any of the priests at Vancouver, before 1st Oct., 1848, say anything as to their compensation, and from whom it was received?

(Objected to by Mr. Farrar.)

Ans. I never did.

Int. 9. Were you acquainted with any Catholic mission in Oregon before 1848?

Ans. Yes. There were two in the Willamette valley and one at the Cowletz. There were also Jesuit missions in the interior. There was a distinction between the two sorts.

Int. 10. Through whom did the mission generally transact their financial business, or who was their financial agent?

Ans. I don't know.

Int. 11. Were not the mission furnished money and goods by the H. B. Co.?

Ans. They were, and goods were charged to them and paid for by them. I have frequently put up goods for them.

Cross-examination by Mr. FARRAR, att'y for St. James mission:

Int. 1. Do you know the present boundary or lines of the Short claim?

991 Ans. This place is so much altered that I could hardly point them out now. The only way I knew them was by what Mr. Douglass claimed.

Int. 2. From the time Short came upon the land did he alter his lines or change his claim?

Ans. Not to my knowledge. I did not know much about it.

Int. 3. What do you mean by Mr. Douglass' claim?

Ans. Mr. Douglass claimed the land on which the company's post was.

Int. 4. How much land did Douglass' claim?

Ans. Six hundred and forty acres—one mile square.

Int. 5. Do you know where his southwest corner was?

Ans. It must have been somewhere about the present western wharf in town.

Int. 6. Did the H. B. Co. claim the land for itself where Douglass claimed it?

Ans. The company did not then claim it.

Int. 7. When was this?

Ans. I think it was in A. D. 1846. The claim of Douglas was recorded.

Int. 8. Douglas was at that time chief factor of the H. B. Co.?

—. ——.

Int. 9. Did Mr. Douglas ever extend his claim to the west?

Ans. The claim was never altered.

Int. 10. Who claimed the land immediately to the west of Douglas' claim?

Ans. Mr. Ermatingee.

Int. 11. What distance did he claim upon the river?

Ans. He claimed one mile square.

992 Int. 12. Do you know on what part of the land Short erected his first building?

Ans. I think about the middle of the west half of the land.

Int. 13. Did his family reside there?

Ans. Yes, sir.

Int. 14. Did Short himself ever reside on the easterly half part of the claim?

Ans. I don't know; I don't recollect.

Int. 15. Did you know him ever to reside on that part of the claim?

Ans. I never did.

Int. 16. Was not his residence on the lower or west part of the claim at the time he died?

Ans. Yes, sir; I never knew him to live anywhere else.

Int. 17. From the time of the commencement of the claim of Short up to 1850 were there not one or more persons residing upon and claiming the easterly half of what you speak of as the Short claim?

Ans. There was Dr. Lansdale, and he was tenant under Short. He never put in any claim to it that I know of. There was a man by the name of Fenlay, who lives at Oregon City. There was a man by the name of Gardner who claimed it, and he was shot—killed—by Short.

Int. 18. Did Short ever make any improvements on the easterly half of the land up to A. D. 1849?

Ans. He made some improvements—slight improvements; cut down some brush.

Examined by Mr. LOGAN:

993 Int. 1. You say that Mr. Fenlay and Gardner each claimed part of Short's claim? State when either or both claimed it.

Ans. Fenlay did so in 1848, and Gardner in 1849.

Int. 2. Did either ever reside on and cultivate the land?

Ans. Finlay did; about a year. He bought a small piece of Short. I believe Gardner wanted to get a piece by force; this led to the difficulty with Short.

Int. 3. You say Short resided on his claim from '47 off and on till his death. Did he, during that time, have any other residence?

Ans. No.

Int. 4. Did not Short reside and cultivate his claim continuously during that period?

Ans. His family might have done so. I think he did not; he traveled about some.

By Mr. FARRAR:

Int. 1. Did you ever know that land to have been claimed by a person named Williamson?

Ans. I don't think he ever claimed it, but I believe he had the same place which Finlay had afterwards; he transferred to Finlay.

Int. 2. Was not that the easterly part of the claim?

Ans. It was.

Int. 3. What do you mean by Williamson's having the land?

Ans. I think he obtained it by some agreement with Short. It was but a small piece.

Int. 4. Was not he put off by H. B. Co.?

Ans. No; only Short was put off by the company.

Int. 5. Did not Williamson go to the States in 1845?

994 Ans. He left the country. I don't know where he went; it was later than 1845.

Int. 6. Did he ever return?

Ans. Not that I know of.

Int. 7. When did Finlay go on the land, before or after Short?

Ans. After. It must have been in 1848, about the time of the discovery of gold in California.

Int. 8. Did you know a man named Fellows?

Ans. I heard of him; did not know him.

Int. 9. Did he not go there in '47 and live till 1849?

Ans. No; I think no one was there till 1849.

Int. 10. Did not Fellows build a house there?

Ans. No; not that I recollect.
Int. 11. Do you know a man named Kellogg, who had something to do with that claim?
Ans. Don't recollect the name at all.
Int. 11. Do you know a man named Young, who did the same?
Ans. No.
Int. 13. Do you know of Wilson's doing so?
Ans. No.

FORBES BARCLAY.

By Mr. HALBROOK:

Int. 1. Who were instructed in the schools you refer to in your testimony?
Ans. Indians, half-breeds, servants' wives; they belonged to the company's establishment.

By Mr. FARRAR:

Int. Do you mean to be understood that none but those
995 belonging to the company or its servants were instructed by the priests?
Ans. No; any one that chose could come.
Int. Did not persons come who did not belong to the company?
Ans. Indians did.

FORBES BARCLAY.

FORT VANCOUVER, *9th Oct'r*, 1839.

To the Rev'd Mons. Blanchet.

MY DEAR SIR: I am directed to inform you that the governor and committee, have no further objection to the establishment of a Roman Catholic mission in the Willamette, and you are therefore at liberty to take any measures you may — necessary towards the promation of that object.

I remain, my dear sir, yours very truly,

JAMES DOUGLASS.

Exhibit No. 1. April 24th, 1860.—The signature of James Douglass, ch. factor, this day sworn to by Dr. Forbes Barclay.

J. TILTON,
Sur. Gen., W. T.

HUDSON'S BAY HOUSE, LONDON, *Aug.* 14, 1846.

Rene, 21.
Repurdun, 24, per Mr. Heptonsall.

RIGHT REV'D SIR: I have the honor to acquaint you that
996 bills amounting to £7644.7.1. drawn by Mr. Demers on M. Mailly in favor of Mr. Chief Factor Douglass, arrived yesterday from Fort Vancouver and have been refused acceptance by M. Mailly.

This amount being more than three times as great as that which the governor and committee were led to expect for your letter of the

13th of June last makes the case one of very serious importance, and renders it necessary that I should request you to transmit to me if possible by the 19th instant, some proposal for the arrangement of this matter to be laid before the board on that day.

I have the honor to be right revd. sir,
Your most obedient h'bl. servt.,

A. BARCLAY, *Secretary.*

The right revd., the bishop of Drasa.

Signature admitted by Dr. F. Barclay.
April 24th, 1860.

J. TILTON, *S. G., W. T.*

HUDSON'S BAY HOUSE, LONDON, *Sep. 5th*, 1846.

RIGHT REV'D SIR: The proposals submitted by you, through M. de Fowrrette, for the payment of the bill drawn by M. Desmers, for advances made by the Hudson's Bay Company to the Catholic mission of Oregon, have been under the consideration of the governor and committee.

The advices received from the company's officer in charge at Fort Vancouver, having led the governor and committee to expect that in the event of funds not being ready to meet the bill when
997 at maturity, a short delay until the money could be remitted to London would be all the accommodation that would be required, they are greatly surprised and disappointed at the long period which you now ask for the liquidation of the debt. Under the unfortunate circumstances however, in which you are now placed, they do not urge immediate payment, but the promissory notes which you propose to give them are quite inadmissible, as the company cannot forego their right to hold the Catholic mission responsible for the debt incurred.

What the governor and committee require in the mean time is that you should write a letter to them pledging yourself both personally and as the head and representative of the Catholic Mission of Oregon, to pay annually, on the 1st Nov'r a sum not less than one thousand pounds sterling until the debt now amounting to £6,869.16.4. together with interest at the rate of five per cent. per annum shall be extinguished, the interest to be added as you have proposed to the principal on the first of November, each year according to the annexed statement.

I am at the same time directed to acquaint you that until this debt is cancelled it will be impossible for the company to grant any supplies to the mission except for ready money, or money deposited here with them in advance.

I have the honor to be right rev'd sir,
Your ms. obed. humble servant,

A. BARCLAY, *Secretary.*

998 To the right rev'd the bishop of Drasa, &c., &c.

Signature sworn to by Dr. F. Barclay, April 24th, 1860.
J. TILTON, *S. G., W. T.*

OREGON CITY, *April 6th*, 1847.

Rev'd M. Demers.

DEAR SIR: I am sorry to inform you that in consequence of intelligence received lately from England I have been instructed by Messrs. Ogden & Douglass to furnish no further supplies to your mission except for ready pay.

I suppose the accompanying letter will duly inform you of the circumstances which obliged the company to take this disagreeable step.

I remain with much respect,
Yours very truly, RICH'D M. KINLAY.

Signature admitted as genuine this 24th April, 1860.
J. TILTON, *S. G., W. T.*

FORT VANCOUVER, *2nd April*, '47.

The Rev'd Mr. Demers.

DEAR SIR: Intelligence of the late arrival of the Hudson's Bay Company's barque Cowlitz, at Fort Victoria, was received yesterday, and we have now much pleasure in forwarding letter by that vessel for the Soewrs de Notre Dame, and for your mission.

We have received official copies of the Oregon treaty by the
999 Cowlitz, from London, corresponding in all respects with the treaty as it appeared in the late extra of the "Spectator."

We observe only one case on board the Cowletz to the address of Mons. Blanchet. We are extremely sorry to say that Mons. Blanchet has been totally unable to meet your bills drawn in the spring of 1845, and the Hudson's Bay Company have been under the necessity of making an arrangement with Mr. Blanchet for the payment of the sum by annual installments of £1000 with interest at 5 per cent. on the unliquidated balance. The debt therefore will probably not be extinguished before the 1st of November 1855.

This is a mortifying circumstance to us, exposing us to censure and pecuniary embarrassment, for the confidence we have constantly reposed in your means of repayment, the expenses you have incurred having as Mons. Blanchet asserts gone greatly beyond his expectations.

We take this earliest opportunity to inform you that in consequence of this unfortunate event we have received instructions to make no further advances on credit to the mission, and we must add that we are exceedingly distressed about your last bills drawn in March of this year, and hope you will favor us with a visit at your earliest convenience to concert measures for the future.

Your letters for the last express, arrived to-day, 24 hours after its dispatch from this place, and are now returned to you, as they could not overtake the post.

With best wishes, yours truly,

PETER SKEEN OGDEN.
JAMES DOUGLAS.

1000 Signatures admitted as genuine this 24th of April 1860.
J. TILTON, *S. G. W. T.*

FORT VANCOUVER, 12*th of April*, 1849.

His grace, the archbishop of Oregon City.

MY LORD: It affords me much pleasure to communicate for your information, that Mr. Voisin has sustaines the credit of your mission by paying to the Hudson's Bay Company, the instalment "due on the 1st Nov., 1848, and something over."

The bill drawn last year by the bishop of Vancouver's island, on Mr. Voisin for £250, which was in the first place protested for non-payment, has been since paid in full and the balance of about £230 is now remaining in our books to the credit of Bishop Demers, and I believe he intended that sum for your use. If you are aware of that arrangement, the sum is at your disposal.

I have the honor to be your lordship's obt. st.,
JAMES DOUGLAS.

Exhibit No. 3. April 24, 1860.—The signature of J. Douglass, this day sworn to by Dr. Forbes Barclay.

J. TILTON,
Sur. Gen. W. T.

FORT VANCOUVER, 6*th Feb'y*, 1849.

To the grace, the archbishop of Oregon City.

MY LORD: We have the honor to acknowledge the receipt of your esteemed favor of the 31st of January, requesting in-
1001 formation on various subjects connected with the interests of your mission, which we shall now endeavor to supply.

The last payment on your account advised from London up to the departure of the packet in March 1848, was made on the 31st of Nov. 1847, and we have not since had an opportunity of hearing from the Hudson's Bay house.

Any payment made after that time will be advised by our next ship, and we will not fail to communicate with you on that subject immediately on her arrival.

In the meantime in order that you may have a clearer idea of the arrangement and actual state of the mission account, a copy is herewith transmitted, brought down to the 1st June 1848, with interest on the balance up to that date.

We beg to assure you that the present embarrassed state of your finances has been a source of indescribable anxiety to us, and you have done justice to our feelings in supposing that it would afford us a real pleasure to lend our aid in extricating you from that painful situation.

We sincerely congratulate you on the satisfactory prospects to which you have alluded in your letter, and we shall be most happy to learn that your hopes have been fully realized.

We are prepared to receive gold dust from you on the most favorable terms, and have decided on allowing you 16 dollars per

ounce for any quantity you may give in payment of the mis-
1002 sion debt, and should it be worth more that that rate in England, after all expenses paid, we will further allow you the difference in value.

That arrangement is altogether advantageous to you, and we trust it will prove satisfactory.

I remain my lord, your graces' most obedient devoted servant,

PETER SKEEN OGDEN.
JAMES DOUGLAS.

Exhibit No. 4. April 24, 1860.—The signature of J. Douglas sworn to by Dr. Forbes Barclay.

J. TILTON,
Sur. Gen. W. T.

FORT VANCOUVER, *3rd May*, 1845.

To the revd. father in God, the lord archbishop of Oregon City.

MY LORD: I have much pleasure in acknowledging your much valued communication of the 24th April. It is unfortunately *time* that the bills of 1847 have been returned upon our lands protested, and it was my intention to have waited upon you in the Wallamette, in order to effect some arrangement for the future liquidation of these bills had I not been assured by the Revd. Mr. Delevand, that he shortly expected a visit from you here. An arrangement might be made at once satisfactory to the company and which will relieve you from any vexatious ulterior proceedings, and it will afford me much pleasure to talk over the subject when we meet.

We will then also enter into all the other details con-
1003 nected with your account respecting which you desire information.

I have the honor to be your lordship's most ob't serv't,

JAMES DOUGLAS.

Exhibit No. 5. April 24th, 1860.—The signature of James Douglas sworn to this day by Dr. Forbes Barclay.

J. TILTON,
Sur. Gen.; W. T.

FORT VANCOUVER, *1st Dec'r*, 1852.

His Grace. Repse. C. 17 Dec.

The Archbishop Blanchete en 1852			Dermie mars	1,000 00
			Nos.	2,500 00
My lord	"	" do	xhe	1,000 00
				4,500 00
		do	Parles lempe	480 00
				$4,980 00

I have to acknowledge having received from Messrs. Allan, McKinlay & Co., the sum of two thousand five hundred dollars

($2,500.00) which I have placed to the credit of the Catholic mission in acct. with the honorable Hudson Bay Company. Will you excuse my reminding your lordship that the instalment promised annually, was not fully paid last year, and that there is still a considerable amount due upon that of this year. I am now occupied in settling the accounts of this outfit and feel particularly desirous that they should be closed this season earlier than usual. It would be most gratifying to me to be able to include these sums in the accounts of the current outfit.

I am your lordship's most obedient servant,

JOHN BALLENDER.

1004 Signature admitted as genuine this day April 24th, 1860.

J. TILTON,
Sur. Gen., W. T.

(Comptes Baud. Hudson.)

(Endorsed:) Deposition of Forbes Barclay on behalf of parties opposed to mission & 6 exhibits.

(Endorsed:) No. 28. Interior Department records. Filed by defendants April 6th, 1888. W. Byron Daniels, referee.

DEPARTMENT OF THE INTERIOR, W. H. W.
GENERAL LAND OFFICE. D. T.
WASHINGTON, D. C., *March 16th*, 1888.

I, J. M. Stockslager, acting Commissioner of the General Land Office, do hereby certify that the annexed copy of a document in the matter of the St. James, Missouri and others, claimants to certain lands at Vancouver, Washington Territory, transmitted to this office by the surveyor general of said Territory with his letter of April 29th. 1863, pursuant to telegraphic instructions given by this office, April 13th. 1863, is a true and literal exemplification of said document as the original thereof appears on file in this office.

In testimony whereof, I have hereunto subscribed my name and caused the seal of this office to be affixed, at the city of Washington, on the day and year above written.

[SEAL.] S. M. STOCKSLAGER,
Acting Commissioner of the General Land Office.

1005 G. 19262.

Gay Hayden, being first duly sworn, says that in the year A. D. 1850 he arrived at Vancouver, W. T., and has resided at that — and in the vacinity thereof from said date up to the present time. He says that he is in no way interested in that peace of land which the city of Vancouver claim- under the town-site act. He says that at the said date, 1850, the said gore of land claimed by the city aforesaid was in part surveyed, laid out, and occupied as a town site for purposes of business and trade and not for agriculture. He says that a portion of said land was then laid out and claimed by Clarke county as a county-seat, and affiant says that he is informed and believes that there was no other claimant therefor untill 1854 except the Government.

There was little or no settlement upon said gore of land until 1854, settlers being prohibited by the military authorities, but at the last-mentioned date the said gore was thrown off and settlements immediately commenced and have rapidly increased up to this time to such a degree that at this time the whole of said gore is laid out and surveyed into streets and blocks, which block- are at the present time occupied. Affiant says that he is informed and believes that at the present time there *is* at least three hundred inhabitants and many valuable buildings used for purposes of business and trade, *and* etc., upon said gore of land. Affiant says that he was in
1006 such a situation in residing at Vancouver as to have heard of such claims as were set up to said gore, but that he never heard of any claimant except the said county, or that it was ever claimed for any other purpose (except the military) than for business and trade up to the year 1854.

And further affiant say-th not.

GAY HAYDEN.

TERRITORY OF WASHINGTON, }
County of Clarke. }

Personally appeared the above-named Gay Hayden, known to me, and subscribed and swore to the foregoing affidavit this 12th day of May, A. D. 1860.

Witness my hand and official seal.

JNO. D. BILES,

[NOTARY PUBLIC SEAL.] *Notary Public in and for Clarke County, in Washington Territory.*

John F. Smith, being sworn according to law, says that he arrived at Vancouver, W. T., in 1853, and that he has resided in the city and vacinity ever since. He says that he is in no way interested in the gore of land claimed by said city as a town site; that settlement of said gore commenced immediately after the same was thrown off the Government reserve, in 1854, and that severel sett-ers had settled thereon previous to any claim having been set-up by the St. James mission. He says that said mission did not set up a claim until the spring of 1854. He says that his means of knowledge are that he resided near the *preats*, having daily intercourse with them, and was fam-liar with all thier acts, boarded thier hand-and the
1007 surveyors at the time they first sit up the claim afforesaid. He says that he knew the *preast* to protest or object to the settlement of said gore of land. He says that from the first settlement of said gore of land up to the present time settlemen-s have been made rappidly, and that at the present time there are, as he is informed and bel-aves, about 300 inhabitants on the same, and the whole of said land is laid out into blocks and streets, all of said blocks being occupied. He says that building and improvements are still going on with great rappidity. Affiant says that the said mission until last spring never to his knowledge claimed any of the land of Ester Shorts, and he says that a part of Vancouver City is located upon her east line near the gore of land. That he is in-

formed and believes that with last-mentioned part of the city there are from two hundred and fifty to three hundred inhabatants; and further affiant sayeth not.

JOHN F. SMITH.

Subscribed and sworn to before me this 14th day of May, A. D. 1860.

Witness my hand and official seal hereunto annexed.

[Seal John D. Biles, Notary Public.]

JNO. D. BILES,
Notary Public in & for Clarke Co., W. T.

1008 TERRITORY OF WASHINGTON, } ss:
County of Clarke, }

John D. Biles, of Clarke county, in said Territory, being first duly sworn, says that he arrived in Vancouver, Clarke county, W. T., in the month of May, A. D. 1849, and has resided in or near said Vancouver City off an- on since that time; that sime time in the summer of the year A. D. 1850 the probate judges of Clarke county, then acting as county commissioners by and under the statutes of then Oregon Territory, did, in pursuance of said statutes, take, lay off, for the use of Clarke Co. and as a town site a certain piece or parcel of land, and afterwards, to wit, in the month of August, A. D. 1850, Geo. P. Porter, a practical surveyor, was employed to survey, lay off, the tract of land commonly known as the fraction, lying and being between the military reserve and Mrs. Esther Short's land claim, and that said land, with others, now occupied by the military authorities as a U. S. military reservation, was surveyed, laid off, and plotted as the town site of Columbia City, then named, but now called Vancouver City; that since that time until the year 1853 the military commander forbid any person or persons improving upon the same, but in the year 1853, some time during the summer, improvements were being made upon said fraction, and from that time up to the present much valuable improvements have been made by the settlers thereon; that there are now many large stores, shops, &c., upon the said fraction; that it has
1009 been taken and occupied as a town site since the year A. D. 1850; that I am not interested directly by means of holding any lands or houses upon said fraction; that there are, to my best knowledge and belief, 300 inhabitants living and residing upon said fraction & town site.

JNO. D. BILES.

TERRITORY OF WASHINGTON, } ss:
County of Clarke, }

I hereby certify that the above-named J. B. Biles has this day duly sworn and signed the above instrument of writing, at my office, at Vancouver, Clarke county, W. T., this the 16th day of May, A. D. 1860.

Witness my hand and private seal, there being no *private* seal provided.

[SEAL.] P. AHERN,
County Auditor said County, W. T.

(Endorsed:) No. 29. Interior Department records. Filed by defendants April 6th, 1888. W. Byron Daniels, referee.

DEPARTMENT OF THE INTERIOR, W. H. W. D. T.
GENERAL LAND OFFICE, W. D. S.
WASHINGTON, D. C., *March 16th*, 1888.

I, S. M. Stockslager, acting Commissioner of the General Land Office, do hereby certify that the annexed copy of a document in the matter of the "St. James mission" and others, claimants to certain lands at Vancouver, Washington Territory, transmitted to this office by the surveyor general of said Territory, with his letter of April 29th, 1863, pursuant to telegraphic instructions given by this office April 13th, 1863, is a true and literal exemplification of said document as the original thereof appears on file in this office.

In testimony whereof I have hereunto subscribed my name and caused the seal of this office to be affixed, at the city of Washington, on the day and year above written.

S. M. STOCKSLAGER,
[SEAL.] *Acting Commissioner of the General Land Office.*

G. 19262.

To the surveyor general of the Territory of Washington:

Pursuant to notice issued from your office that you would on the 23rd day of April, A. D. 1860, "hear the testimony and examine the papers in certain contested land claims near Fort Vancouver, including the mission claim," the undersigned Roman Catholic bishop of Nesqually, hereby gives notice of the claim of the Roman Catholic Mission of St. James, to six hundred and forty acres of land in the present county of Clarke, and Territory of Washington, and respectfully submits the following statement of the origin, establishment and progress of said mission:

On the eighth day of June, in the year A. D. 1835, the Roman Catholic bishop of Juliopolis, who was then vicar general of Red river, and acting under the Roman Catholic bishop of Quebec, in Can-da, addressed an official communication "to all the families established on the Wallamette river, and other Catholic persons beyond the Rocky mountains," in which he acknowledged to have received from them two petitions, one dated July 3rd, A. D. 1834, the other Feb'y 23rd, A. D. 1835, that missionaries be sent out to instruct them and their children, and promised to exert himself to meet their requirements. In the same communication the bishop declared his intention to sent missionaries amongst the numerous Indian tribes inhabitating the country of the petitioners. This letter or address, was dated at St. Boniface, in the Red River

settlement, then a portion of the Hudson Bay Company's possessions.

The signers of the two applications to the bishop were "free" men, some if not all, of whom formerly had been in the service of the Hudson Bay Company, in Oregon, but having been discharged by the expiration of their stipulated term of service, had settled upon lands in that vast country then known as the Columbia country, or "Oregon."

At that period, Oregon was within the diocese of the Roman Catholic bishop of Quebec, and thus it continued for several years.

The Hudson Bay Company then, and long subsequent thereto, had trading posts or establishments, at different points in the country to the west of the Roc-y mountains. The company was wealthy and all powerful throughout "Oregon," it possessed almost unlimited influence with the Indian tribes, and whosoever it countenanced, found great favor with the Indians.

1012 About the year A. D. 1835, the bishop of Juliopolis made application to the Hudson Bay Company, for passage in the company's brigade for two Catholic priests from Canada to Oregon, and desired the consent of the company to the establishment by these priests of a mission on the Willamette river, in the now State of Oregon.

The passage for the priests was secured, but the company would not grant permission for them to found a mission station south of the Columbia river, and afterwards objections were interposed to the fulfillment of the promise to allow Catholic missionaries to enter "Oregon."

On the 13th. day of October, A. D. 1837, the bishop of Juliopolis again applied to the Hudson Bay Company for *th* the privilege to send and passage for two priests, to the Columbia river region.

On the 17th. of February A. D. 1838, the present Sir Geo. Simpson, in behalf of the Hudson Bay Company, addressed to the Catholic bishop of Quebec, a letter intimating, that a passage to Oregon would be afforded for two priests, and "that on their arrival at Fort Vancouver, measures would be taken by the company's representative there, to facilitate the establishing the mission, and the carrying into effect, the object thereof generally."

In consequence of such permission, the Catholic bishop of Quebec, in the spring of A. D. 1838, designated and sent two Catholic priests,

1013 the Revd. F. N. Blanchet, now archbishop of Oregon City, and the Revd. Modeste Demers, now bishop of Vancouver island, "to that part of the diocese of Quebec which is situated beeween the Pacific ocean and the Rocky mountains."

These priests received from the bishop of Quebec instructions to consider as the first object of their mission the drawing out from barbarity and disorders, the Indian or savage nations of the country to which they were commissioned.

At the time the Rev'd Mr. Blanchet was appointed vicar general of Oregon.

On the 24th. of November A. D. 1838, Rev'd Messrs. Blanchet

and Demers, arrived at Fort Vancouver and immediately entered upon the labors to which they had been deputed.

Such was the inception of the Catholic mission station at Vancouver.

It was intended by the bishop of Quebec that the first Catholic mission station in Oregon should be established on the Cowlitz river, but after arrival in the country, the vicar general—Rev. Mr. Blanchet, deemed it expedient to commence operations by the establishment of the first station at Vancouver, and this was done.

From the date of arrival at Vancouver, (Nov. 24, 1838) Mr. Blanchet there remained until January next ensuing, while Rev'd Father Demers continuously prosecuted his mission duties at the same station, until in April A. D. 1839.

From the 23rd. of April 1839 to some time in the year A.
1014 D. 1844, Rev'd Father Demers came several times each year from other fields of labor to attend the mission station at Vancouver. In January A. D. 1839, Rev'd Mr. Blanchet, the vicar general, visits the Wallamette or Willamette, in the now State of Oregon, and in the autumn of that year established the mission of St. Paul, in the Willamette.

On April or May of the same season he founded a mission station on the Cowlitz, occasionally visiting and fulfilling the duties of missionary priest at the Vancouver station, and this he continued until the fall of A. D. 1842, when two more Catholic priests arrived in Oregon.

These latter were the Rev'd Messrs. Langlois and Balduc who came via Cape Horn and the Sandwich islands instead of across the continent. The H. Bay Co., having in some parts of the years A. D. 1841, '2 evinced a decided unwillingness to an increase of Catholic missionaries and mission stations to the westward of the Rocky or Stony mountains.

On the 15th. April A. D. 1841, Sir Geo. Simpson, of the H. B. Co. communicated to the bishop of Quebec that he soon should pay a visit to "Oregon," and would report—the Hudson's Bay Co. upon the condition and beneficial affect of the presence of the Catholic priests in that country and the establishment of mission stations therein, and after making such visit the said Sir Geo. Simpson did report to the company favorably to the Catholic mission in Oregon, since when and until after, the passage of the act of Congress approved
August 14th. A. D. 1848, establishing the territorial govern-
1015 ment of Oregon, the Hudson Bay Company in different ways manifested an interest in the prosperity of the Catholic mission. Any enterprise in Oregon.

As a result of the visit and observation of Sir Geo. Simpson, to the country, Dr. John McLaughlin, the chief officer of the Hudson Bay Co. in Oregon, notified Rev'd Mr. Blanchet the vicar general, that he had been instructed to place £100 (one hundred pounds sterling,) to the credit of the Oregon Catholic mission as an acknowledgement of the eminent services he and his colleague (Rev'd Mr. Demers,) "are rendering the people of this part of the country."

This amount was allowed by the H. B. Co. for several years there-

after, and the same was accounted for to the former vicar general, but present archbishop of Oregon City, Rev'd Mr. Blanchet. This said sum of one hundred pounds per annum was not allowed, credited, or paid by reason of any contract or agrument with the H. B. Co. and the missionaries or any of them, but was given and received as a gift, or subscription for the support of Catholic mission stations in Oregon.

Soon after the advent of the two new priests in A. D. 1842 as hereinbefore stated, Rev'd Mr. Blanchet assumed the discharge of the missionary duties at the mission station at Vancouver and devoted the major part of his time to the same until the latter part of July A. D. 1844, when Rev. Mr. Demers replaced him, who continued in charge until the nineteenth of September following.

From the last-mentioned date until the close of June A. D.
1016 1845, Rev'd P. J. Nobili, S. J., was continuously in charge of the mission station.

Father Nobili was relieved by Rev'd Father De Vos, who performed the obligations attached to the position until some time in May A. D. 1847, and from thenceforward the same were administered by Rev'd Messrs. Joset and Demers to the appointment in October A. D. 1847, of Rev'd Father Delavand, who remained in charge of the mission station until succeeded therein by Rev'd J. B. A. Bronillet in November A. D. 1850, who since then until the present has been the missionary priest of the said Mission of St. James.

At the time the Rev'd Mr. Bronillet entered upon the performance of the duties of missionary as aforesaid at this station, the undersigned, then, since, and now, the Catholic bishop of Nesqually, made his residence at said mission, and has since here continued to have his residence in the discharge of his functions as bishop said diocese.

At different dates and for various periods of time, other Catholic priests occasionally have ministered at this mission station, among whom were Rev'd Fathers De Smet and Accotti, the Rev'd Messrs. Rossi, McCormick, Quinn, King, Bayard, Mesplie, Rossean and La Bas.

From the establishment of the mission station until the 31st of May A. D. 1846, religious services were generally conducted in a small building within the pickets of the H. B. Co. at Ft. Vancouver.

Some time about the year 1843–'4 the H. B. Co., or some of its officers, commenced the construction of a small church edifice
1017 for the mission, which was solemnly blessed and dedicated to the service and worship of the Roman Catholic church on the 31st day of May A. D. 1846, by Rev'd Father De Vos, who was the priest at that time in charge of the station. The dedication was "under the auspices of the holy name of Mary and the patronage of the Apostle St. James, the Greater."

From this the mission station derived its name or title of the Mission of St. James, by which it has since been known.

At this dedication, James Douglas then chief factor and officer of

the Hudson Bay Company at Vancouver, was present, and himself signed his name as one of the witnisses to the dedication of the church edifice to the uses and services of the Catholic church.

Since said dedication the mission has continuously and undisputedly and still does, continued to occupy said church edifice.

The mission station of St. James was in actual existence on the 14th day of August A. D. 1848, and on that day the sacrament of marriage was administered in the church by the priest of the Catholic church.

At the expense of the mission the church edifice was repaired and improved in the years A. D. 1851 and 1852 and 1854, and in the year 1856, it was extended and enlarged.

Within the enclosures of the present establishment is a boarding and day school for boys, also a boarding and day school for girls under the management of Sisters of Charity, an orphan asy-
1018 lum, and a hospital for the reception and relief of the sick, and unfortunate.

This mission station was established in the country of the Klickatat tribe of Indians.

At the time of its foundation and for long afterwards this place was the resort of Indians belonging to other tribes, attracted here by Ft. Vancouver, being west of the Rocky mountains, the headquarters of the Hudson Bay Company. Numerous Indians and half-breeds have been attended and instructed at this mission station. Many Indians have been baptised, confirmed, married, and received Christian burial, according to the rites of the Catholic church.

Prior to the 14th. of August A. D. 1848, more than four hundred Indians had received the rite of baptism at this station.

The mission was established and has been sustained by monies and assistance contributed by the bishop of Quebec, the bishop of Juliopolis, or Red river, the Society for the Propogation of the Faith at Lyons, in Europe.

The Society for the Propogation of the Faith at Quebec by voluntary subscriptions and contributions by tithes pain by Catholic settlers in "Oregon," and by an annual gratuity, or contribution of £100 from the Hudson Bay Co., which last-mentioned item was paid to the "Oregon mission," and has been ever accounted for to the Rev'd Mr. Blanchet, now archbishop of Oregon.

Since the autumn of the year A. D. 1844, the Rev'd F. N. Blanchet has not been stationed at this mission station.

In the year A. D. 1846, he was made archbishop of Oregon
1019 City, and his diocese did not include any portion of Oregon to the north of the Columbia river, although a part thereof was attached to the diocese until the undersigned A. M. A. Blanchet was appointed bishop of Nesqually in the year A. D. 1850, since when the Mission of St. James has been, and now is within his jurisdiction, as said bishop.

The undersigned bases the claim of the Mission of St. James to six hundred and forty acres of land upon the second proviso of the first section of the act of Congress establishing the territorial gov-

ernment of Oregon, approved August 14th, A. D. 1848, and claims that said land is and shall be bounded and described as the survey thereof made by Van Vleet, a deputy U. S. surveyor and now on file in your office.

X A. M. A. BLANCHET,
B'p of Nesqually.

W. H. FARRAR, *Att'y, &c.*

(Endorsed:) No. 30. Interior Department records. Filed by defendants April 6th, 1888. W. Byron Daniels, referee.

Examined.

DEPARTMENT OF THE INTERIOR, D. T.
GENERAL LAND OFFICE, W. D. S.
WASHINGTON, D. C., *March* 27, 1888.

I, S. M. Stockslager, acting Commissioner of the General Land Office, do hereby certify that the annexed copy of a document in the matter of the St. James mission and others, claimants to
1020 certain lands at Vancouver, Washington Territory, transmitted to this office by the surveyor general of said Territory with his letter of April 29th, 1863, pursuant to telegraphic instructions given him by this office April 13th, 1863, is a true and literal exemplification of said document as the original appears on file in this office.

In testimony whereof I have hereunto subscribed my name and caused the seal of this office to be affixed, at the city of Washington, on the day and year above written.

[SEAL.] S. M. STOCKSLAGER,
Acting Commissioner of the General Land Office.

(Endorsed:) No. 31. Interior Department records. Filed by defendants April 6th, 1888. W. Byron Daniels, referee.

(Accounts of the years 1838, 1839, and 1840, hereto attached, are found in vol. 5, place J.)

Examined.

DEPARTMENT OF THE INTERIOR, W. D. S.
GENERAL LAND OFFICE, D. T.
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At the expense of the mission the church edifice was repaired and improved in the years A. D. 1851 and 1852 and 1854, and in the year 1856, it was extended and enlarged.

Within the enclosures of the present establishment is a boarding and day school for boys, also a boarding and day school for girls under the management of Sisters of Charity, an orphan asy-
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The undersigned bases the claim of the Mission of St. James to six hundred and forty acres of land upon the second proviso of the first section of the act of Congress establishing the territorial gov-

ernment of Oregon, approved August 14th, A. D. 1848, and claims that said land is and shall be bounded and described as the survey thereof made by Van Vleet, a deputy U. S. surveyor and now on file in your office.

X A. M. A. BLANCHET,
B'p of Nesqually.

W. H. FARRAR, *Att'y, &c.*

(Endorsed:) No. 30. Interior Department records. Filed by defendants April 6th, 1888. W. Byron Daniels, referee.

Examined.

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[SEAL.] S. M. STOCKSLAGER,
Acting Commissioner of the General Land Office.

(Endorsed:) No. 31. Interior Department records. Filed by defendants April 6th, 1888. W. Byron Daniels, referee.

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S. M. STOCKSLAGER,
[SEAL.] *Acting Commissioner of the General Land Office.*

G. 19262.

April 24th, 1860.—Signature admitted as genuine this 24th of April, 1860.

J. TILTON, *S. G. W. T.*

REED RIVER SETTLEMENT, 14*th June*, 1839.

To the Rev'd Mr. Blanchett, Roman Catlrolic mission, Columbia.

REV'D DEAR SIR: I have to acknowledge receipt of your letter of 6th March and it is highly gratifying to me to learn that you have experienced kindness and attention from the different gentlemen connected with the business—

You saw or had communication with on your journey from Montreal to the Columbia river, and that one and all appear to have manifested an earnest desire to facilitate and promote your endeavors in the cause of morality and religion among the servants, freemen and Indians you have met with since you arrived in the country.

I notice your request of the hon. company's assistant toward obtaining the aide of other Roman Catholic missions from Can-
1022 ada and Europe, which has been supported by a similar request from the bishop of Juliopolis, and for your information I beg to hand you copy of my reply to the bishop's application, which will answer all the purposes of a reply to you on the same subject.

I have the honor to be sir, your most obed. hum. serv't,

GEO. SIMPSON.

(Copy.)

RED RIVER SETTLEMENT, 14*th June*, 1839.

To the right reverend, the bishop of Juliopolis.

MY LORD: I have the honor to acknowledge the receipt of your lordship's letter of this date, wherein you request to know if the company would afford passage to, and facilitate the endeavors of Roman Catholic priests at their establishments situated on the Tas Katehensan route, to which I can make no other reply at present than that I shall have your letter to the governor and committee.

Meantime I beg to recommend that none other be sent thither until after the pleasure of the governor and committee be known on the subject.

Your lordship's father desires to know if the company would comply with the request of the Rev'd Mr. Blanchette, that other

priests might be allowed to proceed by the company's craft
1023 or shipping to the Columbia river. To that inquiry, I can only make a similar reply, which is that it shall be submitted to the governor and committee on my return to England.

In answer to your inquiry as to whether the company would withdraw their limitation in reference to the field in which the Roman Catholic missionaries sent to the Columbia under their auspices, would carry on their labors in that quarter, I beg to say that on a reconsideration of the subject by the governor and committee, Mr. C. T. Douglas was authorized under date 31st. Decr. last, to sanction the settlement of one of the priests sent to the Columbia last year, on the banks of the Willamette.

I have the honor to be my lord, your lordship's most obt. servt.,
(Signed) GEORGE SIMPSON.

(Endorsed:) (25.) Letters of Sir Geo. Simpson to Rev. Blanchett and the bishop of Juliopolis. Date 14th June, 1839.

(Endorsed:) No. 32. Interior Department records. Filed by defendants April 6th, 1888. W. Byron Daniels, referee.

1024 Examined.

DEPARTMENT OF THE INTERIOR, D. T.
GENERAL LAND OFFICE, W. D. S.
WASHINGTON, D. C., *March 27th*, 1888.

I, S. M. Stockslager, acting Commissioner of the General Land Office, do hereby certify that the annexed copy of a document in the matter of the St. James mission and others, claimants to certain lands at Vancouver, Washington Territory, transmitted to this office by the surveyor general of said Territory with his letter of April 29th, 1863, pursuant to telegraphic instructions given him by this office April 13th, 1863, is a true and literal exemplification of said document, as the original thereof appears on file in this office.

In testimony whereof I have hereunto subscribed my name and
[SEAL.] caused the seal of this office to be affixed at the city of Washington on the day and year above written.

S. M. STOCKSLAGER,
Acting Commissioner of the General Land Office.

G. 19262.

DANIEL HARVEY, being sworn on behalf of citizens of Vancouver, says in reply to interrogatories of A. HOLBROOK:

Int. 1. State your residence and occupation.

Ans. I reside in Oregon City and am proprietor of Oregon City claim and mills.

Int. 2. Did you ever reside at Vancouver or in its vicinity; if so, when and in what capacity?

1025 Ans. I arrived here in spring of 1841; lived about 7 miles from Vancouver; in charge of farm and mill for the company till 1849, when I left and went to Oregon City.

Int. 3. While living at Vancouver did you know or hear anything of the St. James mission, so called?

Ans. Never, sir.

Int. 4. When did you first hear of said mission?

Ans. Not till I arrived here yesterday.

Int. 5. During the year 1848 was there any missionary station among the Indian tribe- occupied as such, to your knowledge, at Vancouver or in its vicinity?

Ans. No; there was not.

Int. 6. Was there a Catholic church there?

Ans. Yes; there was.

Int. 7. Who built it, if you know?

Ans. Mr. Douglass, chief factor of Co.'s affairs.

Int. 8. Where did the lumber come from used for building the church, if you know?

Ans. From the saw-mill, chiefly, belonging to company and under my charge.

Int. 9. Who ordered or directed the sawing and delivering of the lumber for the church?

Ans. Mr. Douglass, chief factor.

Int. 10. Was any priest there then?

Ans. Yes; I don't remember who it was; I was seldom at the fort.

Int. 11. Did any priest ever give any directions or make any purchases of lumber?

Ans. None.

1026 Int. 12. While at the fort did you ever see the priests or any of them; if so, where did they live, and how?

Ans. The early part of the time they lived in the fort in a building in the pickets. They were supplied with provisions from the general mess.

Int. 13. Do you know of any other building erected near the church; if so, by whom was it put up?

Ans. A small building near it was put up by Mr. Douglass.

Int. 14. Do you know whether these *was* all the buildings that were there in 1848?

Ans. To the best of my recollection they were.

Int. 15. Do you know of either of these buildings being rented at any time for any other than religious uses?

Ans. I could not say positively; some person resided in one for awhile.

Int. 16. Where did the priest live in 1848?

Ans. I cannot positively say; it was seldom I was down here.

Int. 17. Did you ever know a priest to live anywhere except in the Co.'s houses inside the fort till you went to Oregon City?

Ans. No, sir.

Int. 18. Did you ever hear any of the priests say how they were supported before that time?

Ans. No, sir.

Int. 19. Did you ever know of any priest setting up a claim to

land here as a mission claim before 1849? When did you first hear of it?

1027 Ans. I never heard of it till 1852.

Int. 20. Was you well acquainted with the Catholic clergy here and in the country from 1848 to 1852?

Ans. I was not with any here, but was so with Archbishop Blanchet after I went to Oregon City.

Int. 21. Who attended the services of the priest here till you left for Oregon City, so far as you know?

Ans. Generally the servants of the company. I know of no others.

Int. 22nd. Are you in any way interested in the land in dispute?

Ans. Not at all.

By Mr. LOGAN:

Int. —. Were you acquainted with A. M. Short?

Ans. No.

Cross-examination by Mr. FARRAR:

Int. 1. At what time did Dr. McLaughlin die?

Ans. On 3rd of September, A. D. 1857.

Int. 2. At that time was he not in some way interested in the H. B. Co., its property or stock?

Ans. There was some small sum due him from the company.

Int. 3. Are you one of the executors?

Ans. I am his sole executor.

Int. 4. Are you directly interested in the property of his estate?

Ans. Yes, sir.

Int. 5. How soon after your arrival in Oregon, in 1841, did you take charge of the mill and farm?

Ans. I should think about 9 months; perhaps not so long as that; I commenced the farm.

1028 Int. 6. When was the church building commenced?

Ans. Don't recollect.

Int. 7. What length of time was in in process of construction?

Ans. Don't recollect; should think fully six months; perhaps not so long.

Int. 8. In what year was it erected?

Ans. Don't recollect; it was the year Dr. McLaughlin went to California. I think it was in 1842.

Int. 9. At what time did Dr. McLaughlin remove from Vancouver?

Ans. Don't recollect the year he went to Oregon City permanently to remain.

Int. 10. Do you not know that Dr. McLaughlin was the first to move in the matter of building the church?

Ans. I presume he was, and that Mr. Douglass did it by direction of the Dr.—Dr. McLaughlin.

Int. 11. Do you know the size—the dimentions—of the church when first put up?

Ans. I do not. I never was in it but once. It is a small building.

Int. 12. From the time of your arrival, in 1841, to the time you took charge of the mill and farm where were you?

Ans. I was chiefly at the fort in Vancouver.

Int. 13. How much of the time were you absent?

Ans. I should think about three weeks, perhaps.

Int. 14. During the time you remained at Vancouver were you in the habit or practice of attending church service?

Ans. Never but once at the Catholic church.

1029 Int. 15. During any portion of that time was there a Protestant mission- at the fort?

Ans. No; unless one happened to step in casually.

Int. 16. Did you during your service with the company—did you give much attention to what the priests were doing?

Ans. I did not. I was absent from here about seven miles.

Int. 17. Were there not many Indians at and near Vancouver?

Ans. At time of my arrival there were a great many; there were not so many lat-erly.

Int. 18. Do you mean to be understood to say that the priests did not instruct and administer the rights of religion to any person besides those who were the members and servants of the H. Bay Co.?

Ans. I am not aware that any others attended their church. There might be. I was not there to see.

Int. 19. What priest was at Vancouver when you arrived in the country, and what ones up to the time you left for Oregon City?

Ans. I don't recollect what priest was here, and I don't recollect who were except as I have heard their names to-day—Bishop Blanchett, Mr. Demers, Father Accolti.

Int. 20. Did you ever know of the church being used for any other than religious purposes?

Ans. None other, sir.

Int. 21. Have you in your possession the letters, papers, correspondence of Dr. McLaughlin?

Ans. I presume I have some. I have not examined them.

(Signed) DANIEL HARVEY.

1030 ARCHIBALD MCKINLAY, being sworn on behalf of the citizens of Vancouver, says in reply to interrogatories by Mr. HOLBROOK:

Int. 1. Please state your residence and occupation.

Ans. I reside in Yamhill Co., Oregon, and am a farmer.

Int. 2. Were you ever residing at Vancouver; if so, when and in what capacity?

Ans. I resided there from 4th of June, 1840, to the 11th November, 1840, as a clerk, and from 25th of February, '46, to 25th M'ch, '46, and then went to Oregon City to take charge of the Co.'s business at that place.

Int. 3. Do you know anything of any mission at Vancouver during that time?

Ans. I knew there were chaplains at Vancouver, whom the Hudson's Bay Co. paid as such. I think their books will show this. Whether there was a mission or not I cannot say.

Int. 4. State whether, after you removed to Oregon City, you were at Vancouver, and how often.

Ans. I was there frequently; perhaps once a month or once in two months.

Int. 5. State where the chaplains lived at Vancouver, and how they were supported, if you know.

Ans. I knew Mr. Demers lived in the fort of the H. B. Co., afterwards Mr. Delevand; at least always when I was there.

Int. 6. Who was officiating as priest in 1848?

Ans. Don't remember; I am not sure, but I think Mr. Delevand. I knew he was in 1849.

1031 Int. 7. What church buildings, if any, were there in 1840? When was service performed?

Ans. There was no church; the service was performed in the fort in an old building, now torn down.

Int. 8. Where was service held in 1846?

Ans. I think the church now standing was commenced in 1846. It appears to me it was began that year. I understood it was called the Church of St. James, and was built by the Hudson's Bay Co.

Int. 9. Do you know whether any other building was put up near the church at that time?

Ans. Not to my knowledge, though there were several in the vicinity occupied by the Co.'s servants. Captain Lattie's was very near.

Int. 10. Do you know whether there was any missionary station among the Indian tribes at Vancouver in 1848?

Ans. I knew nothing of any. I don't know whether there was or not.

Int. 11. Did you ever hear of any priest or other person setting up a claim to the land at or near Vancouver as a mission station?

Ans. I have heard reports, but — from any one personally.

Int. 12. When did you first hear these reports?

Ans. I cannot give dated. I might say about 1851 or '52 or '53. It was certainly after the U. S. Government established jurisdiction over this country.

Int. 13. Was it before or after the army was stationed at Vancouver?

1032 Ans. The army came here in 1849. I cannot gave date or time when I heard the reports; it was a mere outside matter *with* to me. I am certain it was 1851, '52, or '53.

Int. 14. Do you know when A. M. Short began to reside on the land claimed by him?

Ans. He commenced first to reside in the fall of 1846. That claim had been taken by me. Ermatinger *who* left me as his agent to attend to his business in this country. Short went there and built a house on it. I had the case tried, and it was decided in my favor. Short's house was pulled down, and he was sent off in a boat — very few days or weeks after. He came back and built again,

and, so far as I knew, has continued there since, or his family. I took no further proceedings against him after he came back. My employer, Mr. Esmatie, lost his residence so far as he was concerned, as he never returned to the country, and so I gave up my claim to the land.

(Objected to, as to the last part, by Mr. Farrar.)

Int. 15. Was Esmatinger an American citizen or did he ever declare his intention to become such?

Ans. I think not. He was only holding the claim under the provisional government while the country was in joint occupancy.

Cross-examination by Mr. FARRAR:

Int. 1. Are you now or were you ever a member of or partner in the Hudson Bay Company or the owner of any stock or interest in the Co.?

Ans. I was a partner in the company. I left the Co.'s serv-
1033 ice on furlough in 1850, retired in 1851, and my retired interest expired in June 1st, 1857.

Int. 2. At what time did you come to Oregon?

Ans. Came to Vancouver the first time in 1839.

Int. 3. Did you keep the account books of the Co. in 1840 while at Vancouver?

Ans. No, sir; I wrote a good many of them.

Int. 4. Do you know who were the book-keepers in 1840?

Ans. Geo. T. Allen was book-keeper.

Int. 5. Was there not more than one?

Ans. There were five or six—at least five—employed in the office occasionally in keeping the books.

Int. 6. Are you or not well acquainted with the handwriting of Geo. T. Allen?

Ans. I am, sir.

Int'y 7. Will you examine the account here handed you and answer in whose handwriting it is? (An account here handed witness.)

Ans. I do not know who made this account. The letters, words, and figures at foot of the account—to wit, "E. E. T. Vancouver, 16th March, 1841"—are the handwriting of Mr. McTavish. Mr. McTavish was then the head accountant of the Hudson Bay Company at Vancouver.

Int'y 8. Do you know or can you recollect whether in 1840 there was kept upon the Co.'s books an account with the "Catholic mission"?

Ans. I cannot recollect; I was merely here a transient resi-
dent at that time, and did not take much trouble to inquire
1034 into the general accounts or who they were with.

Int'y 9. From 25th Feb'y, 1846, to 25th March, 1846, how were you employed?

Ans. Well, I rather think I was not employed. I think I was under treatment by Dr. Barclay for sore eyes.

Int. 10. Will you examine the account now handed you and tell me in whose handwriting it is?

Ans. I cannot tell you in whose handwriting it is. It is familiar to me, but I cannot place it; can't tell who signed it. It was made out, in my opinion, by some of the young men in the Co.'s office. I do know the signature; at least it looks very much like Mr. G. Rae'- signature. He was at one time chief trader in the H. B. Co.'s service. At — time this account was made out he was chief accountant of the company at Vancouver.

(The account is marked by sur. gen'l as referred to in cross-interrogatory No. 10.)

I do not know of any personal knowledge that he was the chief accountant, but I have no doubt of it, as I was connected with the Co. and have papers from him as such, and in 1839 saw him at Vancouver as chief accountant of the H. B. Co.

Int. 11. Will you examine the account or "recapitulation of mission account," now handed you, and tell me in whose handwriting it is?

Ans. A part of it is the handwriting of Dugald McTavish (all that pa-er as marked by Sur. Gen'l Tilton). The remainder I don't know.

1035 Int. 12. In what capacity was Mr. McTavish acting for the H. B. Co. in Feb'y, 1845?

Ans. I cannot say. If he was here at that time I think he was the chief accountant for the company.

Int. 13. Where were you then?

Ans. I was at Walla Walla in 1845.

Int. 14. Do you or not know whether Mr. McTavish was then in the service of the Co. at Vancouver?

Ans. I know he was then in the service of the company, but where I do not know.

Int. 15. Will you examine the account here handed you and answer, if you know, in whose handwriting it is?

Ans. I do not know it.

Int. 16. In your direct examination you have stated there were chaplains at Vancouver. Who were those chaplains, as you call them?

Ans. I understood there was a certain sum, one hundred pounds, I think, per year, paid to the chaplains. I think the books of the company will show it.

Int. 17. Will you now give the names of those chaplains?

Ans. I cannot, sir. There were several. Not being much of a church-going man, I cannot give the names. I know that Mr. Delevand was here in 1849, and that is all I know of it.

Int. 18. Will you swear that Mr. Delevand received one hundred pounds per year from the H. B. Co.?

Ans. No, sir.

Int. 19. Will you swear he was ever in the service of the H. B. Co. as a chaplain?

1036 Ans. No, sir; I only know he was living in the fort, and I understood him to be so.

Int. 20. Are you quite sure that the church building was not commenced as early as 1844?

Ans. No, sir; I am not sure. I am only certain of it from having seen a church then. It was there between '46 and '49. I might have been commenced as early as 1840 for aught I know.

Int. 21. Do you mean to be understood that there was not in 1848 a mission station among the Indians at Vancouver?

Ans. I do not know whether there was or not.

Int. 22. Do you mean to say that you might not have heard of the claim to land made by the priests before 1851?

Ans. I can't tell about dates. I know I heard of it in or after 1851, but I can't say whether I did before 1851 or not.

Int. 23. You have stated that you acted as agent of the H. B. Co. at Oregon City from some time in 1846. State whether or not goods were obtained at your store by any Catholic priest or priests and how were they charged.

Ans. All goods obtained by any of the priests were charged to either the "Catholic mission" or "Jesuite mission."

Int. 24. Do you know Forbes Barclay?

Ans. Yes.

Int. 25. Are you or not well acquainted with his handwriting?

Ans. Yes, sir; very well.

Int. 26. Examine the paper now handed you and answer if you know the signature and who signed it.

1037 (Objected to by Mr. Holbrook, because Barclay is living and can be called himself.)

Ans. I know the signature. It is Dr. Forbes Barclay's. I know it well.

(Paper marked by sur. gen'l.)

Int. 27. You have stated that Short built a house in 1846 on the land now claimed by his widow and heirs. On what part of the land was that house?

Ans. I cannot exactly tell you. It was not far below this. It was about half way between the old salmon house and the white house built afterwards by Short, and in which he lived, on the western part of his claim.

Int. 28. Who made the first claim to the land now claimed by Short?

Ans. I really don't know the boundarys of Short's claim. At time Short built the house, in 1846 or 1847, I was the agent of a person who claimed the land.

Int. 29. Was Ermatinger a claimant of the land before Short?

Ans. He was, before Short came to the country. Ermatinger paid the absentee tax of five dollars per year for his claim to secure it.

Int'y 30. You have stated that you had a case tried against Short

for the land. In whose name was the suit brought and when and where was it tried?

Ans. The suit was brought in the name of Ermatinger against Short. I don't know exactly when the suit was brought or tried.

Int'y 31. Did you obtain judgment in this action in favor of Ermatinger?

1038 Ans. Yes, sir.

Int. 32. Was Short put off the claim upon process issued upon the judgment?

Ans. Yes, sir; I understood it so, and the house was destroyed.

Int. 33. How many persons and who are they you have known as claimants to the land or any part of it now claimed by Short?

Ans. Ermatinger was. He left me the records in my possession of his right to the land. I do not know where those records are now.

Int. 34. Did you ever know of a Mr. Williamson, Mr. Gardner, Mr. Kellog, Mr. Wilson, Mr. Fellows, or any of them, claiming the land or any part of it?

(Objected to as irrelevant.)

Ans. I heard of a Mr. Gardner, who was killed by Short, claiming a part by purchase from Kellog. I heard Gardner say that he had bought a piece of the land from either Kellog or Fellows, and I don't recollect which of the two. Gardner was on the land and was improving it when Short shot him.

Int. 35. Do you know where Short's southeast corner was?

Ans. No, sir.

Int. 36. Upon what portion of the land was the difficulty between Short and Gardner?

Ans. I can't say. It was but a short distance below the lower wharf.

Int. 37. When did Short put up his second house?

Ans. I don't know.

1039 *To* Mr. HOLBROOK:

Int. 1. In making sale from Oregon City store of goods charged to the Catholic mission, spoken of in your cross-examination, to whom were the goods delivered and where were they sent, if you know?

Ans. Mr. Demers and Mr. Balduc were the principal agents of the Catholic mission. Mr. Balduc did the most. There were different agents. The goods went towards building the church at Oregon City and the brick church in Marion Co. and in other directions I don't know where.

Int. 2. Were goods sold by Bishop Blanchet, of Oregon City, for his own use also charged to Catholic mission?

Ans. They were so far as I remember. I do not think there was any account with any individual. All was done in the name of the Catholic mission and Jesuit mission.

Int. 3. State, if you know, what has, during the last ten years, been the ability of Dr. T. Barclay to pay all his debts.

(Objected to by Mr. Farrar.)

Ans. So far as I know I never heard of any complaint against him for not paying. I think he has property sufficient to pay. He has always paid me.

(Signed) ARCH'D McKINLAY.

Received from Rev'd Mr. Delavans, on account of the church, 500 feet dressed weather boarding, which I premise to deliver the same quantity in the same order when it may be required.

(Signed) FORBES PARCLAY.

6th April, 1850.

1040 (Endorsed:) Identified by A. McKinlay as the signature of Dr. Barclay. Cross-interrog. No. 26. (Signed) James Tilton, S. G., W. T. April 25th, 1860. No. 33. Interior Department records. Filed by defendants April 6th, 1888. W. Byron Daniels, referee.

1041 Examined.

DEPARTMENT OF THE INTERIOR, D. T.
GENERAL LAND OFFICE, W. D. S.
WASHINGTON, D. C., *March 27th*, 1888.

I, S. M. Stockslager, acting Commissioner of the General Land Office, do hereby certify that the annexed copy of a document in the matter of the St. James mission and others, claimants to certain lands at Vancouver, Washington Territory, transmitted to this office by the surveyor general of said Territory, with his letter of April 29th, 1863, pursuant to telegraphic instructions given him by this office April 13th, 1863, is a true and literal exemplification of said document, as the original thereof appears on file in this office.

In testimony whereof, I have hereunto subscribed my [SEAL.] name and caused the seal of this office to be affixed, at the city of Washington, on the day and year above written.

S. M. STOCKSLAGER.

(The deposition of Frederick F. Ramsey, marked No. 34 and attached hereto, is found in vol. 5, place "K.")

1042 Examined.

DEPARTMENT OF THE INTERIOR, D. T.
GENERAL LAND OFFICE, W. D. S.
WASHINGTON, D. C., *March 27th*, 1888.

I, S. M. Stockslager, acting Commissioner of the General Land Office, do hereby certify that the annexed copy of a document in the matter of the St. James mission and others, claimants to certain lands at Vancouver, Washington Territory, transmitted to the office of the surveyor general of said Territory, with his letter of April 29th, 1863, pursuant to telegraphic instructions given him by this office April 13th, 1863, is a true and literal exemplification of said document, as the original thereof appears on file in this office.

In testimony whereof I have hereunto subscribed my
[SEAL.] name and caused the seal of this office to be affixed, at the city of Washington, on the day and year above written.

S. M. STOCKSLAGER.

1043 G. 19262.

In the Matter of the Contests of Widow and Heirs of A. M. SHORT and Others Concerning Land at Vancouver Claim.

Deposition of W. H. Dillon, Called on Behalf of Esther Short.

WM. H. DILLON, sworn, says:

Int. 1. State your residence and occupation.

Ans. Residence, six miles below Vancouver, in Clarke Co.; occupation, farmer.

Int. 2. Do you know of the land in dispute in these cases?

Ans. I am acquainted with the Short claim. I know where the boundary of the military reserve is, on the river and on the west.

Int. 3. Did you know A. M. Short?

Ans. I did.

Int. When did you first know him and where?

Ans. In February, 1848. My first acquaintance might have been in January, 1848, at town called Linton, in Oregon.

Int. Do you know anything of his claiming the land called by you the "Short claim"? If so, state what you know of his doing in reference to said claim.

(Objected to by Mr. Farrar because it assumes that the witness has stated something which he has not.)

Ans. I know of Mr. Short's occupying the claim. The first time I recollect of seeing him on it was in 1850. I had before passed the house which I found him in in 1850. I saw the house and improvements in March, 1848, the same which I found him in
1044 in possession of and occupying in 1850. First house I saw was a board shanty, which I saw from the river. The house I saw him in in 1850 was a frame house. There was then a field of five or six, possibly seven, eight, or ten acres in good cultivation claimed by Short. His hired men were at work in field. Mr. Short represented to me that the men were in his employ.

(Mr. Farrar objects to Mr. Short's statement as evidence.)

Mr. Short himself was working on the house; his family were residing in the house.

Int. Do you know when Mr. Short left Linton and moved onto this claim? If so, state.

Ans. In March, 1848, the first part of the month, to my best recollection, about the tenth of that month.

Int. Where have Short and his family resided since 1850?

Ans. They have resided on the claim. Short himself, until time of his leaving for California, a short time before his death, resided on the claim with his family. The family have resided on it since.

Int. Do you know on which part, the east or the west half of the claim, they have resided during the time?

Ans. Short and his family resided on the west half up to the time of his death; his family remained there for some time afterwards; till summer of 1854.

Int. Did they make any improvements on the east half prior to Short's death?

Ans. I saw improvements in passing on the east half, but did not know whose they were. The improvements were clearing of the land. There were buildings there also.

1045 Int. Have you any interest in this claim?

Ans. None at all.

Cross-examined by Mr. FARRAR:

Int. 1. When did you first become acquainted with the several corners of Short's claim?

Ans. I am not acquainted with the entire boundaries of the claim. The back side I have never seen; I never was to it.

Int. 2. What do you mean by the "back side" in your last answer?

Ans. The north side; I know the southern line and part of line on E. and W. side, but don't know their length or determination.

Int. 3. When did you first know positively where his S. W. and S. E. corners are?

Ans. I could not state.

Int. 4. State, as near as you can, this time.

Ans. As far back as the year 1854; but I don't know the time of year; it might have been prior to '54.

Int. 5. Have the corners since then been changed?

Ans. Not that I have any knowledge of; they appear to be about the same thing.

Int. 6. Do you know how long Short had been living at Linton when you saw him there in February, 1848?

Ans. I do not.

Int. 7. When did you come to this country?

Ans. In 1847; I stopped, 24th Dec., at Linton, within a few rods of where Short then lived; I was sick and did not, therefore, get acquainted with him till Feb'y, 1848.

Int. 8. From the time of your arrival at Linton, Dec., 1847,

1046 till you became acquainted with Short, in Feb'y, 1848, did Short and his family reside at Linton?

Ans. I hardly knew where anybody lived; I was out of my senses; I think I saw him in that time, but am not sure.

Int. 9. Have you any doubt that Short and family resided at Linton during this time?

Ans. I have none.

Int. 10. Was not Short absent in California in 1848 & 1849?

Ans. I believe he went to Cala. in spring of '49 and returned in summer of '49; I don't myself know of his going to Cala. in 1848.

Int. 11. You speak of having passed on the river in a small boat

by the board shanty in 1848. Do you know whether anybody lived in that shanty or anywhere upon the claim at that time?

Ans. I could see persons passing around; supposed somebody lived there.

Int. 12. Was anybody at that time living upon or improving the east half of the claim?

Ans. Not that I know of; I believe, though, there was a small frame house somewhere about the shanty—somewhere about the center of the claim—and I saw persons about there.

Int. 13. Who did you understand lived in this last-mentioned house?

(Objected to by Shattuck.)

Ans. It strikes me the name of the man was Wilson, but I am not certain.

Int. 14. What was the nature and extent of the improve-
1047 ments on the west end of the claim which you saw in 1848?

Ans. I saw no improvements then except the board shanty. I did not go on shore.

Int. 15. Do you mean to say that the field you saw in 1850 was all in cultivation?

Ans. I was not over the field; what I saw of it seemed to be. Men were cutting in it grain at that time.

Int. 16. Since you came to this part of the country how many claimants have you known of to this land and who were they?

Ans. I knew a man by the name of Kellogg who told me he had had a claim to a part of it, but had sold out to a man by the name of Gardner——

(Mr. Shattuck objects as hearsay.)

In those days there was a great deal said about this claim, but I took but little notice of what passed.

Int. 17. What were the Christian names of Kellogg and Gardner?

Ans. Kellogg signed his name "M. K. Kellogg." I think Gardner went by the name of "Dr. Gardner." I think his name was David Gardner, but am not positive.

By Mr. HOLLBROOK:

Int'y 1. State whether after your arrival in Oregon in 1847 you were frequently at Vancouver and acquainted with its residents.

Ans. I was; it was our place of trade in 1848; was here twice in 1847.

Int. 2. During the year 1848 did you hear anything of the "Mission of St. Javier," at Vancouver?

Ans. Nothing.

1048 Int. 3. When did you first hear of that mission?

Ans. I believe it was in the year 1853 or '54.

Int. 4. During the year 1848 did you hear of any one setting up a claim to land at Vancouver as a mission station?

Ans. I did not.

— —. During that year was there, to your knowledge, at or near Vancouver any missionary station occupied as such among the Indian tribes?

Ans. I had no knowledge of any mission about there.

Int. 5. Who exercised control and acts of ownership over the land in dispute during that year?

(Objected to by Mr. Farrar.)

Ans. I don't know as to the whole claim. I was here frequently in 1848, and the Co. was acting in capacity of owners of the Hudson Bay establishment, and I do not know who claimed the right of the lower part known as the Short claim. I never was on it during that year. I do not know who had control or ownership of the upper part. I was more familiar with the place than the inhabitants.

Int. 6. Did you ever see or know of any priest or person representing any mission exercising any control or ownership over the land from your arrival till 1853?

(Objected — by Mr. Farrar.)

Ans. No; I did not.

Cross-examination by Mr. FARRAR:

Int. 1. When did you move to the land you now occupy?

Ans. The 6th day of November, 1850.

1049 Int. 2. From time of your arrival in Oregon where had you resided to Nov., 1850?

Ans. I stopped at Linton from Dec., '47, to April, '48, when I moved to Sanvies island. I resided on the island in two different places till Jan'y, 1850, when I returned to Linton and resided there till following 6th Oct., and then went onto the claim I now occupy.

Int. 3. How many times in 1848 were you in Vancouver?

Ans. Could not say; was here frequently and returned same day, or else when I came would stop with some neighbor on the south side of the Columbia river, then come to Vancouver in morning, do my business, and immediately leave.

Int'y 4. Were you in 1848 acquainted with any of the Catholic priests at Vancouver?

Ans. I was not.

Int'y 5. Did you know there were any here then?

Ans. I can't say that I had any knowledge of any being about here at that time. I saw the church edifice during that year, but made no inquiry about it.

Int'y 6. When in answer to a question of Mr. Hollbrook you stated you knew nothing of any missionary station here in 1848 what did you understand by the term "missionary station"?

Ans. I had no knowledge of any one acting as missionary or priest at that time.

(Signed) WM. H. DILLON.

(Endorsed:) No. 35. Interior Department records. Filed by defendants April 6th, 1888. W. Byron Daniels, referee.

1050 Examined.

DEPARTMENT OF THE INTERIOR, D. T.
GENERAL LAND OFFICE, W. D. S.
WASHINGTON, D. C., *March 27th*, 1888.

I, S. M. Stockslager, acting Commissioner of the General Land Office, do hereby certify that the annexed copy of a document in the matter of the St. James mission and others, claimants to certain lands at Vancouver, Washington Territory, transmitted to this office by the surveyor general of said Territory, with his letter of April 29th 1863, pursuant to telegraphic instructions given by this office, April 13th, 1863, is a true and literal exemplification of said document, as the original thereof appears on file in this office.

In testimony whereof, I have hereunto subscribed my name, and caused the seal of this office to be affixed, at the city of Washington, on the day and year above written.

S. M. STOCKSLAGER,
[SEAL.] *Acting Commissioner of the General Land Office.*

(Papers hereto attached and endorsed as follows are found in volumes 3 & 4.)

(Endorsement:) Transcript of papers on file in office of register of Washington Territory. Claim of St. James mission at Vancouver. Affidavit of Rev'd M. Demers. No. 36. Interior Department records. Filed April 6th, 1888. W. Byron Daniels, referee.

1051 Examined.

DEPARTMENT OF THE INTERIOR, D. T.
GENERAL LAND OFFICE, W. D. S.
WASHINGTON, D. C., *March 27th*, 1888.

I, S. M. Stockslager, acting Commissioner of the General Land Office, do hereby certify that the annexed copy of a document in the matter of the St. James mission and others claimants to certain lands at Vancouver, Washington Territory, transmitted to this office by the surveyor geleral of said Territory, with his letter of April 29th, 1863, pursuant to telegraphic instructions given him by this office April 13th, 1863, is a true and literal exemplification of said document as the original thereof appears on file in this office.

In testimony whereof, I have hereunto subscribed my name, and caused the seal of this office to be affixed, at the city of Washington, on the day and year above written.

[SEAL.] S. M. STOCKSLAGER,
Acting Commissioner of the General Land Office.

G. 19262.

Report from the select committee on the Hudson Bay Company ordered by the House of Commons to be printed 31st July and 11th August, 1857.

Page 63. G. Simpson examined.

1098. (Mr. KINNAIRD:) Is the Indian settlement at the Red river approved of and encouraged by the company?

1052 Decidedly.

1099. In every way?

In every way.

1100. What provision is made for the instruction of these Indians?

The church missionary society have a missionary in charge of the settlement.

1101. (Mr. EDWARD ELLIN:) Will you state what religious establishments there are?

In the company's territory there are 19 missionaries, stations of the Church of England; 12 Roman Catholic, 4 Wesleyan, and 1 Presbyterian, making a total of 36. In Oregon there is a Roman Catholic mission; on the Gulf of St. Lawrence one; at Albany and Temiscaming one; at the Pre there is a Wesl-yan missionary; at Fort William there is a Roman Catholic missionary, and at Vancouver island there is a Church of England missionary, making in all 42 missionary stations.

1102. (Mr. KINNAIRD:) What provision is made for the chaplain?

The bishop of Rupert's land has a salary of £300 a year from the company. In aid of schools he has £100 a year. The bishop's chaplain at Red river has £150 a year; at York, £50 a year; at Moosr, £50 a year; at East Main, £50 a year; at Victoria, Vancouver's island, £200 a year; the Roman Catholic mission at Red river has £100 a year; at Oregon, £100 a year; at the Gulf of St. Lawrence, £150 a year.

1103. (Mr. CHARLES FITZWILLIAM:) What do you mean by Oregon?

Oregon is in the United States; we call it Oregon.

1104. Do you give religious instruction to the inhabitants of the United States?

1053 No; there is a Roman Catholic bishop, who was taken across by us a good many years ago to Oregon, and he remains there on the promise that he should be allowed £100 a year.

1105. (Mr. ROEBUCK:) Do you pay him?

We pay £100 a year now.

1106. And you maintain him in the United States territory?

We give him £100 a year.

1107. He being in the United States territory?

He being in the United States territory.

Page 64. (Sir G. Simpson continued.)

1129. (Mr. KINNAIRD:) What provision do you make for the instruction of these Indians?

In the different parts of the country favorable for settlement we always encourage missions; but in many parts of the country it would be impossible to collect any body of Indians. The means of subsistence are not sufficient to do so.

1130. As the missions extended would you grant assistance?

Decidedly; we are anxious to improve the condition of the Indians.

1131. What grants in aid are given for the education of the half-breeds and the Indians?

We give no grants in aid. The half-breeds are quite in a condition to pay for themselves—the inhabitants of the country—the heads of families.

1132. And the Indians?

They are brought to the missions.

1054 1133. In fact, you think they are able to take care of themselves and you make no grants in aid for their education?

No.

Page 69. Sir George Simpson continued.

1250. (Mr. GROGAN:) You gave us the number of chaplains that were employed and paid by the company. Are those chaplains required to keep school?

They are encouraged to keep school.

1251. Are they required?

No.

1252. The salary that you pay them has nothing to do with their necessarily keeping school?

No. They are likewise paid by the societies to which they belong—the Church Missionary Society or the Wesleyan Society. At Norway house and at several of the Wesleyan establishments very large schools are kept.

1253. Are they paid for their services as schoolmasters by you or by the missionary society?

They are paid by us in aid of the mission. A salary is given to those parties in aid of the mission, and they keep schools according to the instructions which they may have from the society to which they belong.

1254. Do they receive any payment from the schools—who frequent the schools?

I think not.

Page 72. Sir G. Simpson continued.

1055 1321. (Mr. GORDON:) In your journey, to which you have referred two or three times before at page 54, you say with regard to education, "As to the charges of education, four-fifths of them fall on the pious and charitable associations just mentioned"—that — the church missionary society—"while the remaining fifth is borne by such individual parents as are able and willing to spare £15 a year for the moral and intellectual culture of a child." As five-fifths make a whole, I suppose it may be taken that the company do not pay anything?

No; those are the agricultural settlers of the Red river who are in a condition to pay for their own children.

1322. Then the company do not contribute?

Not there; that is under the direction of the bishop.

Page 73. Sir G. Simpson continued.

1331. (Mr. FITZWILLIAM:) With reference to schools, has any obstacle ever been put in the way of schools being established for the instruction of the Indians?

Never; on the contrary, they have been encouraged.

1332. Did you know Mr. Leith, a chief factor?

Yes; Mr. James Leith, I know him intimately.

1333. He died some years ago?

Yes.

1334. He had amassed a considerable sum of money?

Yes.

1335. Which on his death he bequeathed to various purposes?

Yes.

1056 1336. Can you tell the committee what the purposes were?

I think the promotion of religion in the company's territories—religion and religious instruction; I forget the precise terms.

1337. (Mr. EDWARD ELLIN:) The amount was £10,000 was not it?

Yes.

1338. (Mr. CHARLES FITZWILLIAM:) Are you sure it was not for education and not religion?

I cannot speak to the will, but the executors, I think, were the bishop of London, the dean of Westminister, the governor of the Hudson's Bay Company, and his own brother.

1339. How has that money been applied?

To the support of the mission.

1340. Of what mission?

The bishop of Rupert's land.

1341. But a little while ago you informed us that the company paid the bishop of Rupert's land a salary of £300 a year?

Yes.

1342. What has become of the income of £300 a year, which is the interest of £10,000, more or less?

I am not able to answer the question; I cannot state directly how the application of this money has been made.

1343. You say it goes to the bishop of Rupert's land?

I think it is under his direction.

Page 78. Sir G. Simpson continued.

1449. (Mr. EDWARD ELLIN:) With regard to the Indian
1057 settlement at Cumberland, you were asked some questions with reference to a sum of money of £10,000 which was left by the late Mr. Leith, who had been in the company's service?

Yes.

1450. Will you have the goodness to explain that matter?

The words of the bequest are the following:

The legacy of James Leith was for the purpose of establishing, propograting, and extending the Christian Protestant religion in and amongst the native aboriginal Indians of Rupert's land; the fund, with the accumulations of interest, now amounts to £13,345.

1451. (Mr. ROEBUCK:) What are you quoting from?

The words of the will.

1452. Is that the only statement in the will? Does the will say nothing of the means by which religion is to be propogated?

No; these are the words, "for the purpose of establishing, propogating, and extending the Christian Protestant religion in and amongst the native aboriginal Indians of Rupert's land."

1453. Is that all?

That is all that is said upon the subject.

1454. (Mr. EDWARD ELLIN:) I think you stated the other day that the money was left to certain trustees?

Yes; the sum now amounts to £13,345 three per cent. consols.

1455. (— ROEBUCK:) That you do not quote from the will?

No.

1058 1456. (Mr. EDWARD ELLIN:) That is lodged in chancery, is it not?

Yes; it is now in chancery.

1457. By whom is it now administered?

It was committed to the bishop of Rupert's land by the court of chancery upon the understanding that the Hudson Bay Company would add to the bishop's income a salary of £300 per annum and provide him with a residence.

1458. Which the company did?

Yes; the executors and I think the bishop of London; the dean of Westminister, the governor and deputy governor of the Hudson Bay Company, and his own brother, Mr. William Leath.

1459. They are the trustees by whom the fund is administered?

Yes.

(Page 90. Sir G. Simpson continued.)

1717. (Mr. GROGAN:) In answer to a question a few moments ago by Mr. Roebuck you stated that there were schools established in the country—at the Red river settlement, for instance?

Yes.

1718. By whom were these schools established?

By the missionary societies, the church missionary society and the Wesleyan missionary society.

1719. And they are still maintained by these?

They are still maintained by them and assisted by the Hudson's Bay Company.

1720. Will you explain to me the amount of assistance which the Hudson's Bay Company give them?

1059 There is a money grant to the bishop of Rupert's land of £300 per annum.

1721. What bishop?

The Episcopalian bishop of Rupert's land. There is £100 in aid

of schools; there is £150 to a chaplain at Red river, £50 at York, £50 to a chaplain at Moose, £50 at East Main, £200 in aid of the schools at Fort Victoria; to the Roman Catholic mission at Red river, £100; to the Roman Catholic mission at Oregon, £100; on the Gulf of St. Lawrence, 100 guineas; to the Wesleyan mission at Norway house, £50; at Oxford house, £50; Raing lake, £50; Saskatchewan, £20; and the Presbyterian chaplain at Red river, £50.

1722. With regard to the sums which you have just enumerated, are those payments out of the proper monies of the Hudson's Bay Company or out of any other fund?

Out of the funds of the Hudson's Bay Company.

1723. Exclusively?

Exclusively.

1724. If a missionary were dispatched from this country to that district to take up a location there, would he have a free passage in one of your vessels?

Yes; they usually get free passages.

1725. Are you sure on that subject?

I do not recollect that any case has ever been refused.

1726. Are you aware of any cases in which freight has been charged for missionaries going to that country in your ships?

1060 I cannot tax my memory with that.

1727. In the parli-mentary paper before us there is a statement of expenditure for two passages in a company's ship, and travelling expenses, £41 9s.; freight, shipping, and insurance, £81; that is charged to the church missionary society for two persons who were sent out?

Very likely it was so; if it is stated there, the probability is that it was so.

1728. Then how is that reconcilable with the fact which you have just told us that there was no charge made?

I did not say so; I said I could not call to memory whether there was any charge or not; but we are in the habit of allowing them these salaries.

1729. Are those salaries to these missionaries and clergymen to them as chaplains or schoolmasters?

They are to them in the double capacity of chaplains and schoolmasters.

1730. Is there any requirement upon them on the receipt of such salary to keep a school?

No; there is no positive requirement, but they usually do keep school.

1731. Is it entirely optional with them whether they do keep school or not?

It is optional as far as we are concerned; we do not insist upon their keeping schools. They are under control of the bishop of the territory or the society to which they belong. We exercise no control over them.

1061 Page 102. Sir G. Simpson continued.

2001. (Mr. KINNEAIRD:) With reference to the question 1102 with

regard to the education and Christian instruction of the Indians, are we to understand that the company have adopted no means for the education of the 55,678 Indians from whom they receive their furs and whose lands they claim? I do not refer to the half caste, but to the positively Indian population.

Over 25,000 of that Indian population we have no control, namely, the plain tribes. They wander from the banks of the Missouri to the banks of the Saskutchewan. They are a bold, war-like people over whom we have no control.

2002. That is, a part of them, with respect to those who hunt for you, you use no means for their instruction?

There are religious missions in various parts of the country.

2003. You contribute a very small sum, but that is for them to minister to your own stations and factions, not as missionaries?

Yes.

2004. You give no specific help for the Indians?

The country is so poor that they cannot form settlements. The missions must be immediately in the neighborhood of the establishment.

2005. Are we to understand that the company give no aid specifically for the instruction of the *instruction of the* Indian children to the missionary societies who have voluntarily undertaken it?

1062 We are very anxious to give the Indian children instruction, but the Indians will not give up their children.

2006. Then you would give assistance to *to* schools and missionaries for that purpose, although you have not done it at present?

Yes.

2007. Have you taken any means of getting books of education, either in the Roman or syllubic character, for the population?

The missionary societies have sent out books from time to time.

2008. At their own expense?

At their own expense.

2009. With no assistance from yourselves for that purpose?

I am not aware that there has been any.

2010. Can you tell me of any case where you have contributed for school-rooms for the benefit of the Indians?

We are quite ready to receive Indian children at our own establishments when they can be obtained.

2011. I do not see any record of any contributions out of the funds of the company for the erection of these schools?

There is no immediate outlay connected with the erection of schools at any of our establishments. We have a regular establishment of people who do all the work about the establishment. They build houses, erect schools, and do whatever else is necessary.

2012. At York have you an evening school conducted by

1063 one of the company's servants during the winter for the benefit of the Indians and others resident at the post?

Yes.

2013. Was that formed under the direction of the company?

Yes.

2014. Is that carried out at any other station?

I think at Norway house and at all the establishments where there are missions.

2015. Do you assert that there are evening schools conducted at the expense of the company?

There is no expense connected with it at the different establishments where there are missionaries. We promote education by every means in our power.

2016. It would be very easy to enforce this at all the stations, would it not?

Not to enforce it, but to encourage it.

2017. And you would do so?

Yes; we would do so.

Page 127. Mr. A. Islister.

2486. (Mr. GROGAN:) You say the missionaries, partially assisted by the Hudson Bay Company. Can you define it more actually?

I heard it stated the other day in reply to a question of this nature that the company give certain sums of money varying from £50 to £150 to missionaries. I know that these are given to the missionaries immediately; that no account is exacted of the expend-
1064 iture of these sums; that no returns are made to the company of the way in which education may be advanced by these sums; that they are given, in fact, to the missionaries and not to the missions, and are upon the whole rather an impediment to them — otherwise.

2488. (Mr. EDWARD ELLIN:) I believe those missionaries are not appointed by the company?

No; by no means. They are paid from other sources, and these sums of money are given to them additionally. I am loth to say so, but they are in effect sops to the missionaries.

2482. (Mr. EDWARD ELLIN:) Your observation with regard to the sums of money being a sop to the missionaries I presume does not apply to the sum of money that the company pay to the bishop?

The sum of money that is paid to the bishop by the company is paid under an arrangement sanctioned by the court of chancery. The company cannot withdraw if they try, but the others they can withdraw.

2493. You are aware that it was a voluntary gift on the part of the company?

Yes; I believe it was on the understanding that Mr. Leith's bequest should be devoted to the establishment of a bishopric the Hudson's Bay Company added a certain amount.

Page 158. Sir J. Richardson.

2986. (Mr. BELL:) Have you reason to believe that the
1065 company encourage the settlement of the Indians wherever it is practicable and assists the missionaries, or rather do not discourage the missionaries, in any attempts they make for settlement?

I believe that they assist the missionaries to a certain extent (I don't know to what extent) in a pecuniary point of view.

Page 232. Right Rev'd David Anderson, D. D.

4236. (CHAIRMAN:) Will you have the kindness to give the committee an idea of which is the nature and extent of the system of clergy of the Church of England over which you preside?

I think there are 19 clergy besides myself—that is to say, we are altogether 20 in number. When I went out we were five in number, and that has been the increase in seven years. Of those clergy 15 are furnished by the church missionary society, two are furnished by the Society for the Propogation of the Gospel, one by the Colonist Church Society, and one is chaplain to the Hudson's Bay Company.

4237. They are paid by the societies?

Exactly so.

4238. Will you allow me to ask you from what source your own revenue is derived?

My own revenue is derived from a bequest of the late Mr. Leith, chief factor, which was left for the benefit of the Indians.
1066 There was afterwards a suit in chancery regarding it. It was litigated by the members of his own family, but was at last decided by the master of the rolls, Lord Langdale, in favor of the establishment of a bishopric. The dividend from that bequest amounts to about £380 a year, and Lord Langdale made it a proviso in giving the judgment that the company should attach a chaplaincy also, which is £300 a year, so that my whole income is 680 or £690 a year.

4239. Then it is derived, as I understand it, partly from this bequest and partly from the funds of the Hudson's Bay Company?

Yes.

4240. But the whole is paid to you through the instrumentality of the Hudson's Bay Company?

Yes; so that I derive none from England. It is in a measure paid from the land itself.

4241. (Viscount GODRICH:) But the whole of it is paid under the judgment of the master of the rolls?

Yes, the £380 is the dividend from the funded property in London, and the £300 extra for the chaplaincy is from the adjudication of the master of the rolls.

4242. (MR. EDWARD ELLICE:) It was a voluntary grant on the part of the Hudson's Bay Company, was it not?

Entirely so, except that Lord Langdale, if I understand it, would not give judgment until that had been done. There would not have been enough for the foundation of the bishopric without the chaplaincy.
1067 4243. The £300 on the part of the company is a voluntary grant of itself?

I imagine so; only that it is tied up by Lord Langdale's decision.

4244. (CHAIRMAN:) Their payment of that £300 a year, which

no doubt was voluntary on their part, was, as I understand it, the condition attatched to their receiving the larger sum from this bequest for the endowment of the bishopric?

Quite so.

4245. Is this payment secured to the bishopric of Rupert's land, or could this arrangement be disturbed at the option of the Hudson's Bay Company at any time?

I hardly imagine it could be disturbed.

4246. You believe it is secured?

I believe so. I think the nature of the lagal union secured it. (See extract of a report of the bishop.)

Page 233. The missionaries of the Church Missionary Society in every case receive the amount of salary assigned by the society to their respective stations, which have been carefully adjusted to the circumstances of the stations, and no more. The normal salary is £200 per annum for a married missionary, and £100 for a schoolmaster or lay agent. In these cases the Hudson's Bay Company make an allowance of £50 in consideration of the missionaries services as chaplain to their servants; but this sum goes to the relief of the society and not to the missionary at the station. The
1068 company have been accustomed to give a free passage in their annual ships to the missionaries of the society proceeding to their territory, and in various other ways they have countenanced the labors of the missionaries so far as the same have not interfered with their trading occupations.

Page 237. *Memorial of the Bishop to the Company.*

I have to express my obligation for much valuable aid which has been rendered to me by your board and the council of Rupert's land, in the erection of churches and other ecclesiastical matters. More especially I have to thank the company for undertaking to build, at their own cost, the churches at Moose and at York, now in progress.

On this head I have but one petition to present, which concerns my own cathedral, to be commenced immediately on my return. Might I ask from the honorable company a grant of £500 towards that object, to be paid in two annual instalments?

The society for promoting Christian knowledge have granted me such a sum, and I trust that the company will not be unwilling to contribute the like amount to that church, which will be the mother church of all the churches of the *the* land.

In education I gratefully acknowledge the £100 still continued to the Red River academy, and now devoted to the academy for young ladies at Fort Cross. If a schoolmaster would be appointed
1069 at such leading places as Coulton, Albany, Lac Suel, the company bearing half of the expense and the church the remaining half, it would be a mighty lever for elevating and improving the land. It would be a source of great pleasure to me if the company would sanction such a proposal, even for four or five of the principal forts.

(Endorsed :) No. 37. Interior Department records. Filed by defendants April 6th, 1888. W. Byron Daniels, referee.

(The end of vol. 11.)

1070 CATHOLIC BISHOP OF NESQUALLY *vs.* UNITED STATES *et al.* } Referee's Report, vol. 12. Defense.

Interior Department record. Exhibits 38 to 48, both inclusive. Filed November 12th, 1888.

A. REEVES AYRES, *Clerk*,
By W. F. JOHNSON, *Deputy*.

1071 Examined.

DEPARTMENT OF THE INTERIOR, D. T.
GENERAL LAND OFFICE, W. D. S.
WASHINGTON, D. C., *March 27th*, 1888.

I, S. M. Stockslager, acting Commissioner of the General Land Office, do hereby certify that the annexed copy of a document in the matter of the St. James mission and others, claimants to certain lands at Vancouver, Washington Territory, transmitted to this office by the surveyor general of said Territory, with his letter of April 29th, 1863, pursuant to telegraphic instructions given him by this office, April 13th, 1863, is a true and literal exemplification of said document as the original thereof appears on file in this office.

In testimony whereof, I have hereunto subscribed my name, and caused the seal of this office to be affixed, at the city of Washington, on the day and year above written.

[SEAL.] S. M. STOCKSLAGER,
Acting Commissioner of the General Land Office.

(Paper hereto attached, viz., letter of date January 15th, 1859, signed Rufus Ingalls, is found in vol. 8, "O.")

1072 (Next in order is letter of date Dec. 7th, 1853, and signed E. D. Townsend, ass't adj't gen'l, is found in vol. 8, place "L.")

(Copy.)

Orders No. 77.

HEADQUARTERS,
FORT VANCOUVER, W. T., *December 8th*, 1853.

In obedience to the instructions of the Secretary of War conveyed to the general commanding the department of the Pacific, on the 29th of October 1853, the following-described lands containing six hundred and forty acres are reserved for military purposes to wit:

Commencing at a cedar post branded with the letters U. S., and on the bank of the river near the boat landing and extending from this point twelve hundred yards up the river to a similar post branded with the letters U. S. and about one hundred yards above

the court-house, thence a little ove- one mile and a half on a line running north 21 degrees and 30′ east to a cedar post marked and described as above, thence on a line north 73 degrees west for about twelve hundred yards; thence south 21 degrees 31′ west to the point of commencement, the line marking the front of the reserve extends to the channel of the river, and cedar posts marked with the letters U. S. are placed at intervals along its boundaries.

By order of Lt.-Colonel Bonneville.

(Signed) B. D. FORSYTHE,
1*st Lt. 4th Inf't'y, Adjt.*

1073 (Endorsed:) Copy "E." Fort Vancouver, W. T., December 8, 1853. Col. Bonneville's order establishing boundaries of military reserve in Fort Vancouver.

(Copy.)

Orders No. 1.

HEADQUARTERS,
FORT VANCOUVER, W. T., *January 17th*, 1854.

In order to carry out instructions received from the War Department dated Oct. 29th. '53, and from the headquarters department of the Pacific, dated December 7th, 1853, Surgeon B. M. Byrne, Capt. C. L. Brent, A. Q. M., and Capt. C. C. Augur, 4th infantry, will constitute a board to assemble at this post at 10 o'clock, a. m. to-day, to examine and report upon the extent, condition and probable value of all improvements contained within the limits of the present military reservation at this post of 640 acres.

By order of Lieutenant-Colonel Bonneville.

(Signed) JOHN WITHERS,
2*nd L'eu't. 4th Inf't'y, Adjutant.*

(Endorsed:) Copy "F." Fort Vancouver, W. T., Jan'y 17, 1854. Col. Bonneville'- order appointing a board of officers to report upon improvements within the limits of military reserve.

(Proceedings of a board of officers assembled at Fort Vancouver, W. T., hd. quarters Fort Vancouver, January 17th, 1854, are found in vol. 8, place "H.")

1074 (38.) Report of Capt. Rufus Ingalls to Q. M. gen'l, dated Jan'y 15th, 1859. Letter of Peter Skeen Ogden to sur. general protesting against claim of St. James mission and other correspondence relative to military reserve at Fort Vancouver. No. 38. Interior Department records. Filed April 6th, 1888, by defendants.

W. BYRON DANIELS, *Referee.*

Examined.

DEPARTMENT OF THE INTERIOR, D. T.
GENERAL LAND OFFICE, W. D. S.
WASHINGTON, D. C., *March 27th*, 1888.

I, S. M. Stockslager, acting Commissioner of the General Land

Office, do hereby certify that the annexed copy of "revocation of claim to ten acres of land in Clarke county Washington Territory by the Right Rev'd A. M. A. Blanchet, bishop of Nesqually," is a true and literal exemplification of the original document on file in this office in the claim known as the "St. James Catholic mission."

In testimony whereof I have hereunto subscribed my name, and caused the seal of this office to be affixed, at the city of Washington, on the day and year above written.

[SEAL.] S. M. STOCKSLAGER,
Acting Commissioner of the General Land Office.

1075 To all to whom these presents shall come, I, the Reverand A. M. A. Blanchet, bishop of Nisqually, send greeting:

Whereas the Roman Catholic church, in pursuance of the provisions of an act of Congress entitled "An act to establish the territorial government of Oregon," passed August 14th, 1848, claims as a missionary station six hundred and forty acres of land situate in Clarke county, Washington Territory, where now is the site of Vancouver city, notification for which has been filed in the proper land office by the bishop of Nisqually;

And whereas ten acres of the land included in the said claim of six hundred and forty acres is desired by the United States and the people of the Territory of Washington for the purpose of erecting thereon a penitentiary and other buildings appurtenant thereto:

Now know ye that I, A. M. A. Blanchet, bishop of Nisqually, for divers good causes and valuable considerations me thereunto moving, have revoked, recalled, countermanded, and made void, and by these presents do revoke, recall, countermand, and to all intents and purposes make null and void and of none effect, all claim, right, title, in law or equity, which *which* the said Catholic mission has or by possibility can have, either in possession or expectancy under the provisions of the said act of Congress, to ten (10) acres of land, being part and parcel of the aforesaid six hundred and forty acres of land claimed as a missionary claim aforesaid; which said
1076 ten acres of land is bounded and described as follows: Commencing (2,520) twenty-five hundred and twenty feet north of a certain post marked U. S. on the southwest corner of the military reserve on the bank of the Columbia river and running west forty (40) rods; thence north forty (40) rods; thence east forty (40) rods; thence south forty (40) rods to the place of beginning, containing ten (10) acres of land; to which said revocation he, the said Bishop Blanchet, binds himself and his successor in office forever: Provided that if the Territory of Washington or the United States should not appropriate the afore-described ten acres of land to the purposes herein set forth, then this revocation to be null and void.

In witness whereof the said bishop of Nisqually has hereto set his hand and seal this 21st day of June, A. D. 1858.

A. M. BLANCHET, [SEAL.]
Bishop of Nisqually.

Signed, sealed, and delivered in presence of—
J. B. A. BRONILLET.
O. B. WHADDEN.

WASHINGTON TERRITORY, } ss:
Clarke County, }

On the 21st day of June, A. D. 1858, before me, a justice of the supreme court and judge of the 1st judicoal district in and for said Territory, personally appeared the Right Reverend A. M. A.
1077 Blanchet, bishop of Nisqually, to me personally known, who acknowledged the foregoing revocation to be his act and deed for the purpose therein set forth.

In testimony whereof I have hereunto set my hand and seal the day and year above written.

O. B. WHADDEN, *Judge.* [SEAL.]

(Endorsed:) Revocation of claim to ten acres of land in Clarke county, Washington Territory, by the Right Rev. A. M. A. Blanchet, bishop of Nisqually. Filed June 24, 1885.
(Endorsed:) No. 39. Interior Department records. Filed April 6th, 1888. W. Byron Daniels, referee.

Examined.

DEPARTMENT OF THE INTERIOR, D. T.
GENERAL LAND OFFICE, W. D. S.
WASHINGTON, D. C.; *March 27th,* 1888.

I, S. M. Stockslager, acting Commissioner of the General Land Office, do hereby certify that the annexed copies of *copies of* letters in the matter of the St. James mission and other claimants to certain lands at Vancouver, Washington Territory, transmitted to this office by the surveyor general of said Territory, with his letter of April 29th, 1863, pursuant to telegraphic instructions given him by this office April 13, 1863, are true and literal exemplifications of said letters, as aforesaid, from the files of this office.

In testimony whereof I have hereunto subscribed my
1078 name, and caused the seal of this office to be affixed, at the city of Washington, on the day and year above written.

[SEAL.] S. M. STOCKSLAGER,
Acting Commissioner of the General Land Office.

G. 19262.

SURVEYOR GENERAL'S OFFICE,
OLYMPIA, W. T., *April 29th,* 1863.

I certify the within to be true copies of letters &c. relating to the contested land claims at or near Vancouver, Washington Territory, they having been carefully compared with the originals on file in this office.

ANSON G. HENRY,
Sur. Gen'l, W. T.

HEADQUARTERS DEPARTMENT OF OREGON,
FORT VANCOUVER, W. T., *February 18th,* 1860.

MAJOR:—General Harvey desires me to say, he will cause a map

of the military reserve at this place to be prepared for your use in the examination of the conflicting claims to legal title.

In view of the magnitude of the interest involved of the citizens of the town of Vancouver, as well as of the Government, and that many of the necessary witnesses will not be able to appear at any other place, the general suggests to you for these reasons, the propriety of holding your examination of this case at Vancouver should no other requirements intervene to prevent your
1079 favorable consideration of the same.

I am Major, very respectfully your ob't serv't,

A. PLEASANTON,
Capt. Ind. Dragoons, Ass't Adj't Gen'l.

Major James Tilton, surveyor general of Wash. Terr'ty, Olympia.

(Letter hereto attached, date December 19th, 1859, signed Joseph S. Wilson, acting Commissioner, is found in vol. 5, place "M," and vol. 3.)

GENERAL LAND OFFICE, *March 2nd*, 1855.

SIR: Upon the perusal of the letters to you from Bishop Blanchet of Nesqually, which you personally brought to the attention of this office in behalf of that gentleman, in order to elicit for him any information which we may be able to afford, I have the honor to present the following.

1st. In those letters the bishop refers to that stipulation in the act of Congress approved August 14th. 1848, "to establish the territorial government," (United States Statutes at *page*, vol. 9, page 323, chap. 179,) in which it is "provided also that the title to the land, not exceeding six hundred and forty acres, now occupied as missionary station among the Indian tribes in said Territory, together
1080 with the improvements thereon, be confirmed and established in the several religious societies to which said missionary stations, respectfully belong," and speaks of a conference he had had with the surveyor general of Oregon in which instructions from the General Land Office were alluded to. For the information of the bishop I herewith enclose a copy from our records of the instructions dated 18th. August, 1853, being those to which it is presumed allusion is made.

2nd. The bishop refers to some project of a law or pending measure which he apprehends may interfere with the missionary claim he represents.

Upon this point I can only state that this office has no knowledge of any legislation in which it is proposed to interfere with such missionary rights as may exist under the aforesaid act of 14th. August 1848.

With great respect, your ob't serv't.

JOHN WILSON,
Commissioner.

The Hon'ble C. Lancaster, delegate from Washington Territory, present.

(Letter hereto attached addressed to James Tilton, Esq., date September 29th, 1859, signed Jos. S. Wilson, acting Commissioner, is found in vol. 9, place "L," & vol. 3.)

1081 TERRITORY OF WASHINGTON, }
Clarke County. }

District Court, 1st Judicial District.

I, William Kelly, clerk of the district court of the 1st judicial district, certify that I have carefully and diligently searched the records and pages of my office, and that there are no records or papers to be found among them entitled Ermatinger *vs.* Amos M. Short.

In testimony whereof I have hereunto set my hand and affixed the seal of said court this first day of June, A. D. 1860.

[SEAL.] WILLIAM KELLY,
Clerk of said Court.

(Copy.)

WASHINGTON CITY, *December 19th*, 1859.

Hon. S. A. Smith, Commissioner General Land Office, Washington city.

SIR: At Vancouver of the Columbia, there are several conflict- of claims, which will require careful consideration in order that justice be done individuals and the public.

1. The Hudson Bay Company having ceased to have any rights in the soil, in consequence of the expiration of their charter these rights will not be considered in this communication.

1082 2. The Catholic mission claim 640 acres of land, which they asked to be confirmed absolutely to them, the rights of the Hudson Bay Co., having ceased, now simultaneously with the occupation of certain limited tracts by the Hudson Bay Company, and the Catholic mission, a large body of land was actually occupied and improved by the Government for the purposes of a military road and a military reserve had been laid including the tracts occupied by the mission and the Hudson Bay Co. Vancouver is the headquarters of the Dept. of Oregon.

There are barracks for a garrison of 4 companies at least, there is a large wharf, several storehouses, a stable and all the necessary appurtenances for a large quartermaster's depot. The mission have never occupied but a small tract of land shown in blue lines on the map in your archives.

The road round and in the vicinity of this small tract was actually constructed by the Government. The Government reserve is shown in a full blue line, but, 3.

The mission has extended its western boundary to include a portion of the town site, laid out by the town authorities and shown in yellow on the map and also a portion of Mrs. Short's claim in blue.

Mrs. Short holds her claim under the donation law.

There is no adverse claim either to that held by Mrs. Short, a tract laid out by the city authorities, except the mission claim.

1083 4. Equity requires that the claims of the city and Mrs. Short should be respected. The Hudson Bay claim ceasing, they succeeded to a full and complete title. The mission was originally simply a tenancy of the Hudson Bay Co., the company itself actually paid originally for a number of years a small salary to the officiating priest.

5. I will respectfully urge that such action be taken forthwith as will protect the right of Mrs. Short, the city claim, and the Government in the military reserve.

I am very respectfully your most obt. servt.

ISAAC I. STEVENS.

PORTLAND, *5th May*, 1862.

Dr. A. G. Henry, sur. genl. etc.,

SIR:—I have your letter of 1st. inst., and in reply have to say that I did not deserve to trouble you to forward my argument to the Commissioner of the Genl. Land Office, as I can do that myself. I wished to know whether you would open your decision so that all parties might have an opportunity to be heard in obedience to your instructions from the Commissioner. I infer from your reply that you cannot, and therefore I shall make my application directly to the department at Washington. I did not suppose it was necessary after offering proofs to give notice while the case stood open

1084 for further evidence that I intended to file an argument in a proceeding where I represented hundreds of thousands of dollars' worth of property, for I did not expect that on one party's private withdrawal of an offer to introduce such evidence, any honest tribunal would proceed without notice to an adjudication, when it must have known that other parties interested believed the case to be still open and pending.

As to your complaint of the remark, "if it is in your power to act fairly in the matter towards me, I presume you will do so," I cannot see what in it can justly offend you.

If I had written, "I presume you will not do so," perhaps I should have been understood as stating what might be implied if I "withdrew the allusion," as you request.

But I desire no quarrel with you. I owe a duty to my clients, and I shall try to do it.

I know that you stated in your report, what was and is untrue in declaring that "each claimant had filed an argument (&c.) and your letter of 24th. April admits there was none filed in behalf of the military reservation.

As to the city claim for which I was also counsel, I am informed by some of the committee of the city government, that Mr. Langford says he never filed an argument, but only descriptive plats and other papers as evidence.

I have not seen Mr. L. and therefore I can only say that I never

filed any argument, or know of any being prepared, and I
1085 presume the record shows that I had a right as well for the city as for the reservation to be informed of your intention to consider the case, and of your desire to receive the final suggestions of parties concerned.

I suppose you will of course, (if you have not already done so,) as a matter of simple justice, inform the commissioner that you were mistaken in the statement above referred to, though I confess it is most surprising to me that such a mistake could be made.

Yours respectfully, AMORY HOLBROOK.

VANCOUVER, W. T., *Nov.* 12, 1861.

Dr. Henry, surveyor general, Olympia.

SIR: Mr. Van Vleet, deputy surveyor, having surveyed the mission claim of St. James at Vancouver, by order of the surveyor general Mr. Tilton, claimed his pay from the bishop stating that Mr. Tilton had refused to pay him, the bishop paid him and afterwards wrote to Mr. Tilton claiming his money back on the plea that it belonged to him to pay his employees, for the work he had ordered done. Mr. Tilton answered he had not refused to pay Mr. Van Vleet and that he was going to consult the department at Washington as to what he should do. Did he write and is there an answer, or can the present surveyor general refund the money.

1086 Begging to be excused for the liberty of my inquiries and the trouble they will put you to,

I remain very respectfully sir, your most humble obt. servt.,
J. B. A. BRONILLET.

VANCOUVER, 10*th March*, 1861.

To —— Tilton, Esq., surveyor gen.

SIR: Being under the impression that you refused to pay Mr. Van Vleet for the survey of the mission claim at this place, done by your order, I paid him, on his demand, on the 18th of July last, forty-eight dollars, being since informed that you did not refuse, and believing that the Government is wont to pay for such work, I request you to refund to me the amount.

I may say that I did not pay one cent for the survey of the mission claim at the Cowlitz, ordered by the surveyor general of Oregon.

I have the honor to be respectfully sir, your most humble and obt. servt.,

A. M. A. BLANCHET,
Bp. of Nesqually.

1087 Ans'd 20th March, 1861.

Informing Bp. Blanchet the matter of pay for the survey of the military & mission, with the town-site claims at Vancouver, had been refer-ed for directions to the Com'r of the General Land Office, & *had* he will be apprised of the answer immediately upon its rece*at*.

JAMES TILTON.

PORTLAND, OREGON, *June 9th*, 1860.

Hon. J. Tilton, sur. gen'l, Washington Ty.

DEAR SIR: On behalf of the Catholic mission at Vancouver, I have to request that you do not for the present make any decision respecting the conflicting claims to the land at Vancouver, as it is my wish to furnish you with further evidence. This I will do as soon as possible, and not a great while shall elapse before I send you the same, at least more testimony now nearly completed. I will address you again upon the subject shortly.

Very truly yours, W. H. FARRAR,
Att'y for St. James Mission.

1088 VANCOUVER, W. T., *May 13th*, 1860.

To Surveyor Gen'l Tilton:

According to promise I send you the affidavits of J. D. Biles, Gay Hayden, and John F. Smith, two having been hon. members from this county and the other a leading citizen. The character of the men should be taken into consideration by the persons who read their affidavits.

W. G. LANGFORD.

P. S.—I will send Biles over by next mail.

W. G. LANGFORD.

PORTLAND, 14*th April*, 1862.

SIR: In 1859 I was retained by the military officers in command at Vancouver to attend to what he deemed the interests of the Government in reference to the reservation at that place, and also by the corporation of the city in regard to the land adjoining the reservation and appeared before the surveyor general of Washington Territory in April, 1860, at the time testimony was taken.

On the application of council for the Catholic mission, time was granted for procuring further proofs, with the understanding that parties concerned should be notified as to taking the same, and when taken should have opportunity to submit rebutting evidence,
and arguments upon the whole case, as I understood the case,
1089 and was therefore greatly surprised to find that you had decided the matter in issue, without any notice to me, or giving me or my client any opportunity to be heard in accordance with the above understanding, but as you state in your published decision that each claimant by his attorney filed arguments, I write to inquire who filed any as the representative of the reservation or of the city and also to ask when the last testimony appears to have been filed.

Please to give me an early answer to this, as I am preparing a representation of the interests of my clients to be forwarded to the General Land Office as soon as may be possible.

Respectfully yours, AMORY HOLBROOK.

Dr. A. G. Henry, surveyor general.
72—1345

In the matter of the contest of claims to land at & near the city of Vancouver, in the Territory of Washington, pursuant to instructions of the General Land Office of the 29th of September, 1859, & December 19th, 1859.

Whereas, Hon. A. G. Henry, surveyor general of Washington Territory, made a report and decission in the above matter adversely to the claimant & contestants except the Mission of St. James in whose favor he has made a report and decosion under date of —— ——
1862. The undersigned Esther Short and the heirs of Amos
1090 M. Short, dissased, respectfully protest against said report and decission and appeal therefrom and p-ay that said matter may be reviewed and that these contestants may be heard in said matter before the Hon. Commissioner of the General Land Office, at Washington.

Dated Vancouver, W. T., April 26th, 1863.

ESTHER SHORT AND OTHERS,
Contestants,
By LOGAN & SHATTUCK,
Att'ys for E. Short & the Heirs of A. M. Short.

To the Hon. surveyor general of Washington Territory and the Hon. Commissioner of the General Land Office.

VANCOUVER, W. T., *November 10th*, 1861.

Dr. Henry, surveyor general, Olympia.

SIR: I am directed by the Right Rev'd A. M. A. Blanchet, bishop of Nesqually, to request you to prepare and *and* send to the General Land Office at Washington, your report in the case of the claim of the Roman Catholic Missionary Station of St. James, at Vancouver.

I am also desired to annex to present, a list of the principal papers filed in the office of the surveyor general of Washington Territory on the part of the St. James mission, and also a few remarks based upon an official document on file at Washington city, in addition to the argument already filed on behalf of the mission.

1091 A certificate of the clerk of the district court of the 1st judicial district refer-ed to in our argument on file has been left behind, finding it among our papers I send it to you to be put on file.

Were you so kind as to inform the bishop when you presume that your report will be ready and also wheather or not you intend to let him know of the nature of your decission in the case before you send your report to Washington, you would greatly oblige.

Your most humble ob't servant,

I. B. A. BRONILLET, *V. G.*

PORTLAND, 28*th April*, 1863.

SIR: I have your letter and am also obliged to you for the pamphlet copy of your report in regard to the Vancouver claim.

Your letter confirms my statement that no argument was filed in behalf of the reservation, though from the language of the report,

"each claimant by his attorney filed said argument as a part of the record in this case" one might suppose that some person had acted or assumed to act as att'y in that manner.

Nor would your remark as to re-arguing the case have any pertinent application to me or my clients, as I expressly declined to submit any argument, until the testimony proposed to be offered by the mission was presented in a legal manner, and in accord-
1092 ance with the understanding entered into at Vancouver in 1860, I supposed when that was before the surveyor general, I should have opportunity to examine it and also that if the mission did not offer further proof, I would be notified of that waiver on the part of its representatives, so that I or my clients might be enabled to present our case in the usual manner.

If it is in your power to act fairly in this matter, towards me, I presume you will do so, without compelling us to refer the case to the General Land Office, for you cannot fail to see, it seems to me, that your proceedings in the case, while such an endorsement was on the papers, as you mention without notice to the officer having charge of the reservation or his attorney of record, would be likely to prejudice the rights of parties.

The point I propose to make in behalf of the reservation, as well as of the town site, is not regarded as considered by you in your decission, and in my judgement, feeble as it may be deemed, is conclusive against the claim of the mission.

If however you do not feel disposed to or think that at this time you cannot, in the language of the letter to Mr. Tilton, "afford us an opportunity to be heard," of course I shall be compelled to appeal to the commissioner for the privilege of presenting our case, but I trust you will not make this necessary, as it will be at-ended with much inconvenience and delay.

Respectfully yours, A. HOLBROOK.

Dr. A. G. Henry, sur. gen. W. T.

1093 VANCOUVER, W. T., *Feb.*, *A. D.* 1860.

To James Tilton, surveyor general of Washington Territory:

We the undersigned common counc*le* and officers of the city of Vancouver, W. T., would most respectfully represent that in regard to the taking of the testimony &c. relative to the conflicting claims between the C. mission and the Vancouver townsite tract, that the city or town would be subjected to great outlay and expense in sending witnesses to Olympia.

That the witnesses on the part of the town are numerous and their business such that they cannot leave without injury to the same.

Therefore, in consideration of these facts, we would most ungently and respectfully request of you to hear the testimony &c., at this place (if not incompatible with your instructions in the premises or will not subject you to *two* great inconvenience) at the time designated in your letter to the recorder.

This would give all parties a much better opportunity of being fully heard in the premises.

Very respectfully, &c., JAMES TRUMBULL,
President of Council.

Common council of Vancouver city:

DAN'L HEALEY,
JOHN HEXTER,
G. J. FORLEY,
W. L. STAPLES,
H. S. BROCKWAY,
H. COCHRAN.
H. F. STRYKER, *Mayor.*
JNO. D. BILES, *Recorder.*

1094 VANCOUVER, *November 9th*, 1859.

Hon. J. Tilton, surveyor general of Washington Territory.

SIR:—I have just received a letter from the acting Land Commissioner at Washington city, informing me that he has dispatched to you a communication, dated 29th. September, last, containing instructions for the survey of the St. James Catholic mission claim.

Would you be so kind as to let me know when you expect to be able to cause the above survey to be made, as I would like to be present when it is made.

Very respectfully, sir, I. B. A. BRONILLET, *V. G.*

VANCOUVER, *February* 20, 1860.

James Tilton, Esq., surveyor general, Olympia.

DEAR SIR:—The right rev'd bishop of Nesqually, directs me to express to you how much obliged he would feel and what an accom-odation it would be to all parties concerned in the Vancouver claim, if you could in justice to yourself come to Vancouver for the hearing and investigation appointed for the 8th. of March next.

Very respectfully, I. B. A. BRONILLET.

1095 Hon. James Tilton.

D'R SIR: Your favor of the 7th February notifying Mrs. Short that you had fixed upon the 5th day of March next to hear and examine the matters of contest relative to the Vancouver land claim, was not received until to-day, the 18th of February.

The time intervening between this and the 5th of March will not be sufficient to allow her to take the testimony necessary to be presented in that examination.

The testimony of witnesses residing in Vancouver, W. T., Champoeg, Oregon and at Victoria Vancouver's Island, B. C., will be necessary to a full presentation of the *the* contested matters.

We hope you will extend the time so as to enable Mrs. Short to procure *its* necessary testimony.

ESTHER SHORT,
By LOGAN & SHATTUCK, *Att'ys, &c.*

Portland, Oregon, Feb'y 18th, 1860.

OREGON CITY, 18*th Feb.*, 1860.

Hon. James Tilton, surveyor general of Washington Territory.

SIR: With this you will receive a petition from the city council of Vancouver, in relation to taking testimony concerning the
1096 conflict of boundary and claims to land embracing the Vancouver town site. As one of the attorneys of the city council, I take the liberty of urging a compliance with their request, as I am sure that it will be impossible to submit the evidence which ought to be presented by the 5th of March, and I respectfully suggest that you fix the 1st Monday of April as the time for hearing such proof as may be presented. By that day I will endeavor so far as the matter depends upon me, to submit all the evidence which is deemed material.

May I also ask that you will inform me what is the rule of your office in regard to the taking of proof out of your Territory, as there are several important witnesses in Oregon, whose evidence I wish to offer, but who I fear cannot readily go to Vancouver, though they will chee-fully testify here. Among them is Dr. Barclay, a practicing physician here, who cannot leave home without very great inconvenience. If there is no rule at present, will you have the kindness to make one, that will be pertinent to this case.

I trust it will be agreeable to you to visit Vancouver as suggested, by the city council, because I believe your personal inspection of the localities cannot but materially aid in making a report upon the conflicting claims. It may not be amiss to remark that Mr. Chapman, sur. gen'l of Oregon, is now at The Dalles for the purpose of personally investigating the dispute in regard to that town site.

I have the honor to be very respectfully, your ob't servant,

AMORY HOLBROOK,
Att'y for City Council of Vancouver.

1097 VANCOUVER, WASHINGTON TERRITORY,
28*th November*, 1859.

James Tilton, Esq., surveyor general, Washington Territory, Olympia, W. T.

SIR: I have the honor to acknowledge receipt of your communication of 15th inst. with enclosure.

The purport of the same surprises me much, and in the name of the Hudson Bay Company I protest most solemnly against the execution of the instructions received by you from the General Land Office of the United States, which I consider if carried out, a very grave and serious infringement of the possessory rights secured to the Hudson's Bay Company by the treaty of 1846.

Furthermore, I must say I regard the representations set forth by Mr. Bronillet as mistaken, and do not recognize the existence of any Catholic mission at this place, the church and buildings with the exception of a few out-houses erected within two or three years being the property of the Hudson's Bay Company, and the original object of any Catholic priests being at Vancouver, having been for the spiritual welfare of the many Canadian Catholics formerly em-

ployed in our business at this point and for whose use the church referred to was erected.

Let me urge on you as an act of justice towards those who though a foreign corporation, have by treaty, found themselves placed
1098 under the protection of your Government to delay carrying out your instructions until you can submit this letter to those from whom they issue, and receive a reply.

Very respectfully, your obedient servant,

JAS. A. GRAHAMS,
Chief Trader, H. B. Co.

(Endorsed:) No. 40. Interior Department records. Filed by defendants April 6th, 1888. W. Byron Daniels, referee.

G. DEPARTMENT OF THE INTERIOR,
GENERAL LAND OFFICE, G. W. M.
WASHINGTON, D. C., *March 26th*, 1888.

I, S. M. Stockslager, acting Commissioner of the General Land Office, do hereby certify that the annexed papers, paged one to eight, inclusive, are copies of office letters of Aug. 14th, 1873, and Nov. 3rd, 1874, and of the Hon. Secretary's decision of Nov. 2nd, 1874, in the matter of the Vancouver, Washington Territory townsite, and are true and literal exemplifications of the record of this office.

In testimony whereof, I have hereunto subscribed my name, and caused the seal of this office to be affixed, at the city of Washington, on the day and year above written.

S. M. STOCKSLAGER,
[SEAL.] *Acting Commissioner of the General Land Office.*

1099 DEPARTMENT OF THE INTERIOR,
GENERAL LAND OFFICE,
WASHINGTON, D. C., *Aug. 14th*, 1873.

Register and receiver, Vancouver, Washington Territory.

GENTLEMEN: The Vancouver town-site claim to certain land lying principally in sec. 27, 2 N, 1 E, Willamette meridian, has been considered in connection with the claim of the county of Clarke to the same land as a county seat, under act of May 26th, 1824.

It appears from copies of record certified by the county auditor, official seal wanting, that this land was selected by the probate court, as authorized by act of Territorial legislation under said act of May 26th, 1824, and a part thereof laid out into blocks, streets, etc., and measures taken to erect public buildings in July, and August 1850. A court house and jail, were erected on the tract, and conditional sales of lots were made to certain persons.

The town-site claim is alleged to have attached at about the same time, and, as near as can be gathered from the whole case, it appears that a portion of the actual residents desire to have the land entered under act of May 26th, 1824, and the remainder prefer that — should be entered under the town-site laws. This explains the

conflicting petitions. The same settlement and occupation
1100 forming the basis of each claim. Hence the case as it is now presented calls only for a decision upon the lagal status of the said claims.

The Supreme Court of the United States in case of Daniel H. Lonsdale, *et al. vs.* Josiah L. Parish,—21 Howard 290—states that "Congress passed no law in any *inse* affecting title to lands in Oregon, Territory, till Sept. 27, 1850," Washington was a part of Oregon, prior to the 2nd. March 1853. Therefore the said act of May 26th. 1824 had no application to Washington, Territory, and the aforesaid action by the county authorities was void and of no effect.

Subsequently, to wit, July 17, 1854, at which date the pre-emption and town-site laws were extended to Washington Territory, said tract of land was found actually settled upon for purposes of trade, and not agriculture, has been since, and is now, so occupied.

By said last-named act—sec. 1,—all legal subdivisions so settled upon were made subject to the operations of the town-site act, of May 23rd. 1844. Since July 17, 1854, this tract has been subject to entry in no manner save as a town site.

The act of July 1st. 1864, entitled "An act for the disposal of coal lands and of town property on the public domain," repealed absolutely and unqualifiedly all other acts and parts of acts inconsistent therewith, and made provisions for the entry of town sites. Subsequently, the act of March 2, 1867, and June 8, 1868, have
1101 been enacted relative to town sites. It is adjudged as between the aforesaid claimants, that said tract may be entered as the town site of Vancouver, under the laws now in force, on a full compliance with their requirements.

Duly notify all parties in interest. Allow sixty days for appeal, and thereafter report to this office without delay.

Respectfully, WILLIAM DRUMMOND,
Commissioner.

DEPARTMENT OF THE INTERIOR,
WASHINGTON, D. C., 2*nd Nov.*, 1874.

SIR: Referring to departmental decision of 11th March, 1872, in the matter of the claim of the Roman Catholic Mission of St. James, to certain lands in Washington Territory, and to departmental order of 31st July, last, indorsed on letter of Gen. Charles Ewing, referred to your office, directing you not to approve the entry of lands described in said letter until directed so to do, by the department, I have now to direct that patent issue to the town site of Vancouver for lands recently entered by the proper officer for said town site, and in such patent that the following words be inserted: "Reserving the existing legal rights of the St. James Catholic mission, if it now have any."

1102 Papers recently filed in the department by the attorneys of the parties in interest are herewith transmitted for your files.

I am sir, very respectfully, your ob't servant,

C. DELANO, *Secretary.*

Hon. L. L. Burdette, Commissioner General Land Office.

DEPARTMENT OF THE INTERIOR,
GENERAL LAND OFFICE,
WASHINGTON, D. C., *Nov.* 3, 1874.

Register and receiver, Vancouver, W. T.

GENTLEMEN: The cash entry No. 1747 made July 10, 1874, by Abel G. Tripp, mayor in trust for the city of Vancouver covering $129\frac{20}{100}$ acres in sects. 22 and 27, T. 2, N. R. 1 E. as per plat and field notes on file in this office, has this day been approved for patenting, this land having been awarded to said city by my predecessor's decision of Aug't 14, 1873, which was affirmed by the Hon. Sec'y of the Interior, June 12th, 1874, said entry was authorized by my letter to you of June 16, 1874.

The following clause will be inserted in the patent, by direction of the Hon. Secretary of the Interior in his letter of the 2nd inst. to this office, viz: "Reserving the existing legal rights of the St. James Catholic mission if it now have any."

Resp'y,

L. L. BURDETTE,
Commissioner.

1103 (Endorsed:) No. 41. Interior Department records. Filed by defendants April 6th, 1888. W. Byron Daniels, referee.

B. DEPARTMENT OF THE INTERIOR, J. A. D., R. W. R.
GENERAL LAND OFFICE,
WASHINGTON, D. C., *March* 23*rd*, 1888.

I, S. M. Stockslager, acting Commissioner of the General Land Office, do hereby certify that the annexed copy of patent in favor of Abel G. Tripp, mayor of the city of Vancouver, founded on Vancouver, Washington Territory, cash entry No. 1747, is a true and literal exemplification from the record in this office.

In testimony whereof, I have hereunto subscribed my name, and caused the seal of this office to be affixed, at the city of Washington, on the day and year above written.

[SEAL.]

S. M. STOCKSLAGER,
Acting Commissioner of the Gen'l Land Office.

1104 Certificate No. 1747.

THE UNITED STATES OF AMERICA:

To all to whom these presents shall come, Greeting:

Whereas, Abel G. Tripp, mayor of the city of Vancouver, Clarke county, Washington Territory, in trust for the several use and benefit of the inhabitants of the city, aforesaid, according to their respective interests, by virtue of the act of March 2nd 1867, entitled, "An

act for the relief of the inhabitants of cities and towns, upon the public lands," has deposited in the General Land Office of the United States, a certificate of the register of the land office at Vancouver, Washington Territory, whereby it appears that full payment had been made by the said Abel G. Tripp, mayor as aforesaid, in trust as aforesaid, according to the provisions of the act of Congress of the 24th of April 1820, entitled "An act making further provisions for the sale of the public lands" for the following-described tract of land to wit:

Beginning at a Balm of Gilead tree on the north and right bank of the Columbia river, thence north seventy-eight chains intersect lines between sections twenty-two and twenty-seven, three chains and thirty links east of a post for quarter-section corner, seventy-nine chains and seventy-five links to the northwest corner of town-site, thence east thirty-one chains and sixty-six links to the west boundary of the United States military reservation, and the
1105 northeast corner of town-site, thence south twenty-two degrees forty-five minutes, west two chains and eighteen links intersect line between sections twenty-two and twenty-seven, five chains and seventy-four links west of corner to sections twenty-two, twenty-three twenty-six and twenty-seven, eighty-five chains and ninety-eight links to the southwest corner of military reserve, thence south forty-five degrees west, five links to cotton-wood (Balm of Gilead) tree and place of beginning.

Said tract being parts of sections twenty-two and twenty-seven, in township two north, of range one east, Willamette meridian, in the district of lands subject to sale at Vancouver, Washington Territory, containing one hundred and twenty-nine acres and twenty hundredths of an acre, according to the official plat of the survey of the said lands returned to the General Land Office by the surveyor general, which said tract has been purchased by the said Abel G. Tripp mayor as aforesaid, in trust as aforesaid, Now know ye, that the United States of America in consideration of the premises and in conformity with the several acts of Congress in such case made and provided, have given and granted and by these presents do grant and give unto the said Abel G. Tripp, mayor as aforesaid, in trust as aforesaid, and to his successors, the said tract above described, to have and to hold the same together with all the rights, privileges, immunities and appurtenances of whatsoever nature thereunto belonging unto the said Abel G. Tripp, mayor as
1106 aforesaid, in trust as aforesaid, and to his successors and assigns in trust as aforesaid, reserving the existing legal rights of the St. James Catholic mission if it now have any, subject to any vested and accrued water rights for mining agricultural, manufacturing, or other purposes, and rights to ditches and reservoirs used in connection with such water rights as may be recognized and acknowledged by the local customs, laws and decisions of courts and also subject to the right of the proprietor of a vein or lode to extract and remove his ore therefrom, should the same be found to penetrate or intersect the premises hereby granted, as provided by law.

In testimony whereof, I, Ulysses S. Grant, President of the United — of America, have caused these letters to be made patent, and the seal of the General Land Office to be hereunto affixed.

Given under my hand at the city of Washington, the third day of November, in the year of our Lord, one thousand eight hundred and seventy-four and of the Independence of the United States, the ninety-ninth.

By the President :

U. S. GRANT,
By S. D. WILLIAMSON, *Secretary.*
EUGENE A. FISKE,
Acting Recorder of the General Land Office ad Interim.

(No. 42.)
Rec. vol. 5, pages 64, 65.

(Endorsed:) Interior Department records. Filed April 6, 1888, by defendants. W. Byron Daniels, referee.

1107 Examined.

DEPARTMENT OF THE INTERIOR, W. H. W. D. T.
GENERAL LAND OFFICE, W. D. S.
WASHINGTON, D. C., *March 27th*, 1888.

I, S. M. Stockslager, acting Commissioner of the General Land Office, do hereby certify that the annexed copy of a patent dated October 30, 1877, issued in favor of Amos W. Short and wife, for a donation of land in township two north, of range one east, in Washington Territory, donation certificate No. 275, notification No. 446, is a true and literal exemplification of the original patent issued in favor of said Short and wife, as aforesaid, as the same appears of record in this office.

In testimony whereof, I have hereunto subscribed my name and caused the seal of this office to be affixed, at the city of Washington on the day and year above written.

[SEAL.] S. M. STOCKSLAGER,
Acting Commissioner of the General Land Office.

(Patent above referred to is found in vol. 5. place "Q.")

(Endorsed:) No. 43. Interior Department records. Filed by defendants April 6th, 1888. W. Byron Daniels, referee.

1108 Examined.

DEPARTMENT OF THE INTERIOR, D. T.
GENERAL LAND OFFICE. W. D. S.,
WASHINGTON, D. C., *March 27th*, 1888.

I, S. M. Stockslager, acting Commissioner of the General Land Office, do hereby certify that the annexed copy of a letter from the Commissioner of the General Land Office to the Secretary of the Interior, dated April 18, 1871, is a true and literal exemplification thereof from the records of this office.

In testimony whereof I have hereunto subscribed my name, and caused the seal of this office to be affixed, at the city of Washington, on the day and year above written.

[SEAL.] S. M. STOCKSLAGER,
Acting Commissioner of the General Land Office.

DEPARTMENT OF THE INTERIOR,
GENERAL LAND OFFICE,
WASHINGTON, D. C., *April 18th*, 1871.

Hon. C. Delano, Secretary of the Interior.

SIR: I have the honor to submit herewith the papers in the case of the St. James Catholic mission claim in Washington Territory, and in conflict therewith the U. S. military reservation, the Esther Short donation claim and the town site of Vancouver, on appeal from the decision of this office adverse to the mission claim.

1109 This case was submitted for the action of the department on the 20th November, 1862, but was returned by the Ass't Secretary for information as explained in his letter of April 9, 1863, paper No. 45 herewith.

It was again submitted on the 23rd Febryary, 1864, and again returned without definite action on the 20th July, 1864, for the reason that the Attorney General in a similar case expressed the opinion, which was concurred in by the Hon. Secretary of the Interior, that the question presented was purely judicial and "not proper to be determined by any executive officer of the Government."

This ruling was, after review by Secretary Harlan, changed under date August 24, 1865, when this office was directed to take jurisdiction in this class of claims and this case is submitted under that ruling.

In this connection it is proper to state that, since the decision of this office was rendered, two other claims under the donation laws, to the "gore" of land claimed by the town site, have been brought to notice which will be matters for consideration after the claim of the mission shall have been definitely acted upon by the department.

The papers in the case numbered from 1 to 55 are indicated in the accompanying schedule.

Those numbered from 8 to 32 and from 35 to 38, inclusive, when received from the surveyor general were joined under his

1110 certificate of authentication but have been detached and numbered for convenience of reference by the Hon. Secretary.

I am, sir, with great respect, your ob't servant,
WILLIS DRUMMOND,
Commissioner.

(Endorsed:) No. 44. Interior Department records. Filed by defendants April 6th, 1888. W. Byron Daniels, referee.

Examined.

DEPARTMENT OF THE INTERIOR, W. H. W. D. T.
GENERAL LAND OFFICE, W. D. S.
WASHINGTON, D. C., *March 27th*, 1888.

I, S. M. Stockslager, acting Commissioner of the General Land Office, do hereby certify that the annexed copy of an agreement signed by A. Holbrook and W. D. Langford, Logan and Shattuck, and J. B. A. Bronillet, in the matter of the St. James Catholic mission and others, is a true and loteral exemplification of said agreement as the same appears on file in this office.

In testimony whereof I have hereunto subscribed my name, and caused the seal of this office to be affixed, at the city of Washington, on the day and year above written.

[SEAL.] S. M. STOCKSLAGER,
Acting Commissioner of the General Land Office.

1111 In the matter of the conflict of boundary between the representatives of A. M. Short, deceased, the city of Vancouver, the Mission of St. James, and the U. S. Army, claiming a reservation of part of the land in dispute.

Before James Tilton, surveyor general of Washington Territory.

It is agreed that the testimony taken in behalf of any of said parties before the surveyor general may be used as evidence for or against any other without calling any witness in more than one case or on account of more than one claimant.

A. HOLBROOK AND W. D. LANGFORD,
For City of Vancouver.
A. HOLBROOK, *For Military Reserve.*
LOGAN & SHATTUCK,
Att'ys for Widow & Heirs of A. M. Short.
J. B. A. BRONILLET, *For St. James Mission.*

Vancouver, April 23, 1860.

(Endorsed:) Agreement of counsel as to manner of taking evidence before sur. general.

(Endorsed:) No. 45. Interior department records. Filed by defendants April 6th, 1888. W. Byron Daniels, referee.

1112 (Examined.)

DEPARTMENT OF THE INTERIOR, W. H. W. D. T.
GENERAL LAND OFFICE, W. D. S.
WASHINGTON, D. C., *March 27th*, 1888.

I, S. M. Stockslager, acting Commissioner of the General Land Office, do hereby certify that the annexed copy of papers in the matter of the donation claim of Amos M. Short and wife, to lands in township two, north of range one, east, Washington Territory, being notification, proofs, and other papers upon which said claim was adjudicated,

and upon which patent under date of October 30th, 1877, was issued, is a true and literal exemplification of said document in the matter of said claim as the original thereof appears on file in this office.

In testimony whereof, I have hereunto subscribed my name, and caused the seal of this office to be affixed, at the city of Washington, on the day and year above written.

S. M. STOCKSLAGER,
[SEAL.] *Acting Commissioner of the General Land Office.*

TERRITORY OF WASHINGTON:

Notification to the Surveyor General of Oregon of Settlement on Public Lands Not Yet Surveyed.

On margin of this page is the following, to wit:

The surveyor general advises settlers to survey their claim, establish their corners, and plainly mark their lines to secure the
1113 full quantity of land allowed by law and prevent a conflict of boundaries; also to transmit their surveys and plats with their notifications.

Pursuant to the act of Congress approved on the 14 day of February, 1853, entitled "An act to amend an act entitled 'An act to create the office of surveyor general of the public lands in Oregon and to provide for the survey and make donations to settlers of the said public lands"—

I, Esther Short, widow of Amos M. Short, now deceased, late of Clarke county, in that part of the Territory of Oregon now established as the Territory of Washington, hereby give notice of my claim as widow and the claim of the heirs of said Amos M. Short to a donation of 640 acres of land particularly bounded and described as follows:

Beginning at a Balm of Gelead tree about 16 inches in diameter on the northern bank of the Columbia river about sixty yards below the salmon-house, so called, of the Hudson Bay Company, at Vancouver, thence due north 104 chains (of 4 poles each) and 25 links to a red fir tree 4 inches diameter, witness a red fir tree 12 inches diameter N. 51 degrees W. 14 links; thence due west 80 chains to a red fir tree 9 inches diameter, witness trees, red firs, { 10 inches D. S. 45 degrees E. 4, 8 " " N. 28½ W. 7; thence south 55 chains 75 links to a Balm of Gilead tree 40 inches diameter, marked A. M. S., on the bank of said Columbia river, witness a hawthorn tree 10 inches diameter N. 35 degrees W. 24 links; thence following the shore of the Columbia river
1114 up-stream to the place of beginning; and I refer to the survey and plat of said land hereto annexed. I give this notice on behalf of myself as widow and of Curtis F. Short, aged 22 years on the 17th day of October last, now in Texas; Jerusha, now married to Andrew Bolan and aged 21 on 17th of August instant, now of said county; Drusilla Short, aged 19 on 15th January last; Amos Clarke Short, aged 18 on the 4th April last; Cymanthia, now married to Henry C. Morse and aged 16 years on 25th January last;

Maxly B. Short, aged 14 on 31st October last; Alfred D. Short, aged 11 years on 4th March last; Grace H. Short, aged 7 on the 1st September last; Hester M. Short, aged 5 years on the 30th August last; Hannah E. Short, aged two years on the 5th September last, all of said Clarke county and being all the children and heirs-at-law of the said Amos M. Short.

The (worn out) Amos M. Short departed this life on or about the nineteenth day of January, A. D. 1853, having been drown- on board the vessel called the "Vandalia" on a voyage from San Francisco, in California, to said Columbia river.

Dated this 26th day of August, A. D. 185– (worn out).

ESTHER SHORT.

Affidavit of Settlers on Unsurveyed Lands Claiming under the 4th Section of Act of 27th September, 1850.

Esther Short, of Clarke county, Washngton Territory, widow of Amos M. Short, deceased, late of said Clarke county, in the Territory of Washington, being first duly sworn, says that said Amos M.
1115 Short was a white settler on the *on the* public lands in that part of Oregon now established as the Territory of Washington, and that he arrived in Oregon on the last day of December, 1845, and was a resident thereof on and before the 1st day of December, 1850; that he was a native-born citizen of the United States, and that he was born in Tioga county, Pennsylvania, in the year 1810; that he had personally resided upon and cultivated that part of the public lands in that part of Oregon now established as the Territory of Washington, particularly described in the annexed notification to the surveyor general of Oregon, continuously from the 8th day of March, 1848, to the 19th day of January, 1855, the time of his death; and she further says that he intermarried with Esther Clarke, this deponent, his wife, and that he was legally married to her on the twenty-second day of November, A. D. 1829, in said Tioga county, in Pen-sylvania.

ESTHER SHORT.

Subscribed and sworn to before me this 26th day of August, 1853, in the county of Clarke, in said Territory of Washington.

Witness my hand and private seal, there being no seal of said court, at the place and on the day above writ-en.

JAMES C. STRONG,

[SEAL.] *Clerk of the U. S. District Court within & for said County and Territory.*

1116 *Proof of Commencement of Residence and Cultivation on Land Not Yet Surveyed.*

John C. Allman, of Clarke county, in the Territory of Washington, being first duly sworn, says that he is in no way interested in the tract of land claimed as a donation by Esther Short, widow, and the heirs of Amos M. Short, deceased, and particularly described in the annexed notification to the surveyor general of Oregon; that

he was personally acquainted with said Amos M. Short, and knows that he has personally resided upon and cultivated said tract of land continuously from the eighth day of March, 1848, to the 19th day of January, 1853, at which last date said Amos M. Short, deceased, and said Esther Short has since resided upon and cultivated same tract of land to date.

JOHN C. ALLMAN.

Subscribed and sworn to before me this 26th day of August, 1853, in the county of Clarke, in the Territory of Washington.

[SEAL.] Witness my hand and private seal, there being no official seal, at the place and on the day above writ-en.

JAMES C. STRONG,
Clerk of the U. S. District Court within and for said County and Territory.

1117 Henry Allman, of Clarke county, in the Territory of Washington, being first duly sworn, says that he is in no way interested in the tract of land claimed as a donation right by Esther Short, widow, and the heirs of Amos M. Short, deceased, and particular- described in the annexed notification to the surveyor general of Oregon; that he was personally acquainted with said Amos M. Short and knows that he has personally resided upon and cultivated said tract of land continuously from the eighth day of March, 1848, to the 19th day of January, 1853, at which last date said Amos M. Short, deceased, and said Esther Short has since resided upon and cultivated said tract of land to this date.

HENRY ALLMAN.

Subscribed and sworn to before me this 26th day of August, 1853, in the county of Clarke and Territory of Washington.

[SEAL.] Witness my hand and private seal, there being no official seal, at the place and on the day above writ-en.

JAMES C. STRONG,
Clerk of the U. S. District Court within and for said County and Territory.

1118 *Affidavit of Witness for a Settler Claiming Unsurveyed Lands as a Married Man.*

John C. Allman, of Clarke county, in the Territory of Washington, being first duly sworn, says that he was personally acquainted with Amos M. Short, now deceased, the person whose widow and heirs claim a donation right to the tract of land described in the annexed notification to the surveyor general of Oregon, and Esther, his wife; that he has known them to live together as man and wife from the first day of December, 1847, to the 19th day of January, 1853, the time of the death of deceased; and that they are and were reputed by their neighbors as such during said period.

JOHN C. ALLMAN.

Subscribed and sworn to before me this 26th day of August, 1865, in the county of Clarke and Territory of Washington.

Witness my hand and private seal, there being no official seal, at the place and on the day above writ-en.

JAMES C. STRONG,
Clerk of the U. S. District Court within and for said County and Territory.

(Endorsed:) No. 446. Dated 26th August, 1853. Filed 4th October, 1853.

1119 Notice of the connection of the claim of Esther Short, widow of Amos M. Short, dec'd, and the heirs of said Amos M. Short with the United States surveys.

I, Esther Short, widow of Amos M. Short, deceased, claiming for myself and the heirs of said Amos M. Short a donation of six hundred and forty acres of land in Clarke county, Washington Territory, do hereby give notice of the connection of said donation claim with the United States surveys: Beginning at a Balm of Gilead tree, 18 inches in diameter, on the north or right bank of the Columbia river; said tree is situated 2.75 chains east and 78.25 chains south of the post for quarter-section corner, between section 22 and 27, in T. 2 N., 104.25 chains; thence west 80 chains; thence south 55.75 chains to the right bank of the Columbia river; thence S. E. with the meanders of said river to the place of beginning. This connection is made to agree with the survey as made by Lewis Van Vleet, U. S. deputy surveyor.

ESTHER SHORT.

(Endorsed:) 446. Filed June 20th, 1860.

Final Proof of a Settler on the Public Lands in Washington Territory.

In township 2 north of range 1 east.

No. 446.

1120 Esther Short, widow of Amos M. Short, now deceased, of Clarke county, Washington Territory, being first duly sworn, says that she is the person who executed and filed notification No. 446, now on file in the land office at Olympia, Washington Territory; that she and the heirs of said Amos M. Short have resided upob and cultivated the tract of land described in said notification continuously from the ei-th day of March, 1848, to the 18th day of June, 1860; and she further says that she is not acting, directly or indirectly, in the employ of any other person or persons, but that she and said heirs have taken said land for her and their own use and benefit; and that the said Amos M. Short, deceased, resided on and cultivated said tract of land so described continuously from the eighth day of March, 1848, to the 29th day of January, 1853, prior to his death, which took place on or about the 29th of January, 1853, and that deceased held and took said land for his own use and benefit and did not act, directly or indirectly, in the employ of any other person in so doing.

ESTHER SHORT.

Subscribed and sworn to before me, in Vancouver, Clarke county, this 19th day of June, 1860.

[L. S.]

WM. KELLY,
Clerk of the District Court,
1st Jud. Dist., W. T.

1121 No. 446.

Solomon Strong, of Clarke county, Washington Territory, being first duly sworn, says he is in no way interested in the tract of land claimed as a donation by Esther Short, widow, and the heirs of Amos M. Short; that he was personally acquainted with said Amos M. Short and said widow and heirs, and knows that said Amos M. Short personally resided upon and cultivated said tract of land continuously from the 12th day of March, 1848, to the 29th day of January, 1853, and that said heirs and widow resided upon and cultivated said tract of land from the 12th of March, 1848, to June 19th, 1860.

SOLOMON STRONG.

Subscribed and sworn to before me, in Vancouver, this 19th day of June, 1860.

WM. KELLY,
Clerk of the Dist. Court, 1st Jud. Dist., W. T.

No. 446.

William H. Dillon, of Clarke county, Washington Territory, being first duly sworn, says he is in no way interested in the tract of land claimed as a donation by Esther Short, widow, and the heirs of Amos M. Short; that he, Amos M. Short, dec'd, personally resided upon and cultivated said tract of land continuously from the 1st day of August, 1850, to the 29th day of January, 1853, and he further says he is personally acquainted with Esther Short, the
1122 wife of said Amos M. Short, and knows they are and have been during said period reputed as man and wife by their neighbors, and he also knows that said widow and heirs have also resided on said claim and cultivated the same from the 1st of August, 1850, to the 19th of June, 1860.

WM. H. DILLON.

Subscribed and sworn to before me, in Vancouver, W. T., this 25th day of June, 1860.

[L. S.]

WM. KELLY,
Clerk of the Dist. Court, 1st Jud. Dist., W. T.

U. S. LAND OFFICE,
VANCOUVER, WASHINGTON T'Y, *July* 31, 1874.

Personally appeared before me, register of said office, Charles Brown and Michael Wintler, and, being sworn, depose and say that they were well acquainted with Esther Short, wife of Amos M. Short, deceased, during her lifetime; that said Esther Short died in the

city of Vancouver, Washington Territory, on or about the 28th day of June, 1862, and was buried in the grave-yard located on the military reserve near said city.

CHARLES BROWN.
MICHAEL WINTLER.

Subscribed and sworn to before me this day and year above written.

J. C. HILEMAN, *Register.*

1123 *Non-Mineral Affidavit.*

COUNTY OF CLARKE, } ss:
Territory of Washington, }

Abel G. Tripp, being duly sworn according to law, deposes and says that he is the identical Abel G. Tripp, mayor of the city of Vancouver, Washington Territory, who at the request and for the interest of the citizens of that portion of the city of Vancouver who reside on the joint donation land claim of Amos M. Short and Esther Short, both deceased, who acquired possessory title from the heirs of the before-named Amos M. Short and Esther short, and none of the heirs at present residing in this vicinity and none of them having any interest in the issuing of patent to said donation land claim, they having previously disposed of their interest in and to the said claim, is an applicant for the Government title to the donation land claim of Amos M. Short and Esther Short, both deceased, said claim lying principally in sec. 22 and 28, in T. 2 N., R. 1 E., Willamette meridian; that he is well acquainted with the character of said described land and with each and every legal subdivision thereof, having frequently passed over the same; that his knowledge of said land is such as to enable him to testify understandingly with regard thereto; that there is not, to his knowledge, within the limits thereof any vein or lode of quartz or other rock in place bearing gold, silver, cinnabar, lead, tin, or
1124 copper, or any deposit of coal; that there is not within the limits of said land, to his knowledge, any placer, cement, gravel, or other valuable mineral deposit; that no portion of said land is claimed for mining purposes under the local customs or rules of miners or otherwise; that no portion of said land is worked for mineral during any part of the year by any person or persons; that said land is essentially non-mineral land, and that his application therefor is not made for the purpose of fraudulently obtaining title to mineral land, but with the object of securing said land for town purposes.

A. G. TRIPP.

Subscribed and sworn to before me this 10th day of July, A. D. 1874, and I hereby certify that the foregoing affidavit was read to the said Abel G. Tripp previous to his name being subscribed thereto, and that deponent is a respectable person, to whose affidavit

full faith and credit should be given, and that he is the mayor of the city of Vancouver, Wash. T'y.

[L. S.] AUGUST A. SCHAEBEN,
Clerk of the Common Council of the City of Vancouver, Wash. T'y.

1125 Certificate No. 275. Notification No. 446.

Donation.

Whereas in conformity with the provisions of the 7th section of the act of Congress approved September 27, 1850, entitled "An act to create the office of surveyor general of the public lands in Oregon and to provide for the survey and to make donations to the settlers of the public lands," and the amendments thereto, the heirs-at-law of Amos M. Short and Esther Short, wife of Amos M. Short, both deceased, of the county of Clarke, in the Territory of Washington, claiming a donation right, in virtue of the act aforesaid, to a certain tract of public lands known and designated in the surveys and plats of the United States as the claim No. 51, being parts of sections 21, 22, 27, and 28, in township 2 north, range 1 east, Willamette meridian, and bounded as follows:

Beginning at a point 208 chains east and 25.68 chains N. of the quarter sec. corner on the line between said sections 2 and 28, thence S. 55.00 chains, thence S. 48¼ degrees E. 28.00 chains, thence S. 58½ degrees E. 16.00 chains, thence S. 72 degrees E. 2.90 chains, thence S. 66 degrees E. 39.00 chains, thence S. 43½ degrees E. 3.00 chains, thence S. 60 degrees E. 5.90 chains, thence N. 103.50 chains,
1126 thence west 80.50 chains to place of beginning, containing six hundred and sixty-one (661.00) acres, having proven to the satisfaction of the register and receiver of Vancouver land district the fact that such settlement was commenced on the 8th day of March, 1848, more than four years prior to the date hereof, and having, in pursuance of the requirements of the 7th section of the act aforesaid, established by two disinterested witnesses the fact of continued residence and cultivation by the said act:

Now, therefore, be it known that we, J. C. Hileman and S. W. Brown, register and receiver of public lands in said district, do hereby, and pursuant to the 7th section of the act aforesaid, certify to the Commissioner of the General Land Office the facts aforesaid, accompanied by the evidence thereof, in order that a patent may be issued to said claimants aforesaid for the tract of land described, as required by the 7th section of the act aforesaid. The west half of the claim is assigned to husband and east half to wife, provided that the said Commissioner shall fine no valid objection thereto.

Given under our hands, at the land office at Vancouver, W. T., this 31st day of July, 1874.

J. C. HILEMAN, *Register.*
S. W. BROWN, *Receiver.*

Excess on 21 acres paid per rec'pt.
No. 1748, Pierce.

(Endorsed:) No. 46. Interior Department records. Filed by defendants April 6th, 1888. W. Byron Daniels, referee.

1127 Examined.

DEPARTMENT OF THE INTERIOR, D. T.
GENERAL LAND OFFICE, W. D. S.
WASHINGTON, D. C., *March 27th*, 1888.

I, S. M. Stockslager, acting Commissioner of the General Land Office, do hereby certify that the annexed copy of a letter dated Feb'y 4th, 1860, addressed by Amory Holbrook to the Commissioner of the General Land Office, and copies of papers marked "A" and "B," mentioned in said letter and enclosed therein, are true and literal exemplifications of said letter and of said papers marked "A" and "B," as the originals thereof appear on file in this office in the record of the case of the St. James mission and others, claimants to certain lands at Vancouver, Washington Territory.

In testimony whereof, I have hereunto subscribed my name, and caused the seal of this office to be affixed, at the city of Washington, on the day and year above written.

S. M. STOCKSLAGER,
[SEAL.] *Acting Commissioner of the General Land Office.*

1128 OREGON CITY, OREGON, *February 4th*, 1860.

Hon. Samuel A. Smith, Commissioner of the Gen'l Land Office.

SIR: With this I transmit to you two remonstrances against the confirmation by you of the St. James mission, so called, at Vancouver, in the Territory of Washington, to the parties who pretend to represent that mission. The signers are mostly citizens of that town and owners of lots, though you will observe that the paper marked "B" is headed by the name of Captain Rufus Ingalls, U. S. Army, who has been stationed as A. A. Q. M., at Vancouver since 1849, excepting during a part of the years 1853 and 1854.

The other paper was first prepared and generally signed, but after I was retained, I preferred the one marked "B," which would have been signed by all interested if time had been allowed. It is a matter in which there is a very general and deep feeling on the part of all concerned, as well because their pecuniary interests will be affected, as because they believe themselves and the Government imposed upon most grossly and fraudulently.

I pray therefore your special and early attention in their behalf, as I am sure that you will, if in your power, promptly relieve them from the mischievous effects of a "snap judgment," obtained either inadvertently, or by fraudulent representations.

1129 It is especially desired by them that an opportunity may be given for meeting and controverting the pretences of those who represent the so-called "St. James mission," an establishment which owes its present nominal existence neither to the hearts or liberality of its spousors and endorsers, but solely to the generosity

of the American Government, as manifested in the act establishing the territorial governments of Oregon and Washington.

I have the honor to be your obedient servant,

AMORY HOLBROOK,
Att'y for City of Vancouver.

(Endorsed:) Amory Holbrook, Oregon City, Feb'y 4, 1860, transmits two remonstrances against the confirmation of the St. James mission at Vancouver.

To the honorable Commissioner of the General Land Office of the United States:

The undersigned, citizens of the city of Vancouver, Washington Territory, and persons having an interest in the townsite thereof, respectfully represent to the Hon. Commissioner that under the townsite acts of 1844, the city authorities of Vancouver, Washington Territory, are entitled to enter at the proper land office the legal subdivision upon which said city is located.

That in consequence of the claim of the Hudson Bay Co., the land upon which said townsite is located has not been previously
1130 surveyed, and in consequence of the non-survey of said land the city authorities have not had an opportunity of taking any steps for the perfection of the title to said land under the act of 1844.

That while the city was thus laboring under the above disadvantages, persons representing themselves as the agents of a certain mission by the name of St. James, have made application to your honor for the survey of said lands and the set-ing apart *if* 640 ac*ers* of the same to the above-named mission under the organic acts of Oregon and Washington Territories.

In pursuance of said application an order has been issued to the surveyor general of this Territory to survey the lands previously claimed by the aforesaid Hudson Bay Co., and particularly to survey and set apart to the St. James mission their claim of 640 ac*ers*.

Now, the undersigned respectfully inform your honor that the persons representing themselves as the St. James mission, have designated as a part of their claim, the townsite of Vancouver. They further represent that the persons representing themselves as the St. James mission, have not a shadow of right or title to the above-named townsite, from the fact that at the passage of the organic acts of (Organ) Oregon & Washington Territories, there was no such mission in the occupancy of the land now occupied as the townsite of Vancouver City, or in fact of any lands in the county of Clarke,

Washington Territory, and that the representations procur-
1131 ing the survey and set-ing apart of said claims to said mission were fraudulent and fabricated for the purpose of defrauding the citizens of said city out of the lands upon which the townsite is located made valuable by the improvements thereon made by said citizens.

Vancouver, January 28th, 1860.

(Endorsed:) No. 46. Interior Department records. Filed by defendants April 6th, 1888. W. Byron Daniels, referee.

1127 Examined.

DEPARTMENT OF THE INTERIOR, D. T.
GENERAL LAND OFFICE, W. D. S.
WASHINGTON, D. C., *March 27th*, 1888.

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SIR: With this I transmit to you two remonstrances against the confirmation by you of the St. James mission, so called, at Vancouver, in the Territory of Washington, to the parties who pretend to represent that mission. The signers are mostly citizens of that town and owners of lots, though you will observe that the paper marked "B" is headed by the name of Captain Rufus Ingalls, U. S. Army, who has been stationed as A. A. Q. M., at Vancouver since 1849, excepting during a part of the years 1853 and 1854.

The other paper was first prepared and generally signed, but after I was retained, I preferred the one marked "B," which would have been signed by all interested if time had been allowed. It is a matter in which there is a very general and deep feeling on the part of all concerned, as well because their pecuniary interests will be affected, as because they believe themselves and the Government imposed upon most grossly and fraudulently.

I pray therefore your special and early attention in their behalf, as I am sure that you will, if in your power, promptly relieve them from the mischievous effects of a "snap judgment," obtained either inadvertently, or by fraudulent representations.

1129 It is especially desired by them that an opportunity may be given for meeting and controverting the pretences of those who represent the so-called "St. James mission," an establishment which owes its present nominal existence neither to the hearts or liberality of its spousors and endorsers, but solely to the generosity

of the American Government, as manifested in the act establishing the territorial governments of Oregon and Washington.

I have the honor to be your obedient servant,

AMORY HOLBROOK,
Att'y for City of Vancouver.

(Endorsed:) Amory Holbrook, Oregon City, Feb'y 4, 1860, transmits two remonstrances against the confirmation of the St. James mission at Vancouver.

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1130 surveyed, and in consequence of the non-survey of said land the city authorities have not had an opportunity of taking any steps for the perfection of the title to said land under the act of 1844.

That while the city was thus laboring under the above disadvantages, persons representing themselves as the agents of a certain mission by the name of St. James, have made application to your honor for the survey of said lands and the set-ing apart *if* 640 acers of the same to the above-named mission under the organic acts of Oregon and Washington Territories.

In pursuance of said application an order has been issued to the surveyor general of this Territory to survey the lands previously claimed by the aforesaid Hudson Bay Co., and particularly to survey and set apart to the St. James mission their claim of 640 acers.

Now, the undersigned respectfully inform your honor that the persons representing themselves as the St. James mission, have designated as a part of their claim, the townsite of Vancouver. They further represent that the persons representing themselves as the St. James mission, have not a shadow of right or title to the above-named townsite, from the fact that at the passage of the organic acts of (Organ) Oregon & Washington Territories, there was no such mission in the occupancy of the land now occupied as the townsite of Vancouver City, or in fact of any lands in the county of Clarke,

Washington Territory, and that the representations procur-
1131 ing the survey and set-ing apart of said claims to said mission were fraudulent and fabricated for the purpose of defrauding the citizens of said city out of the lands upon which the townsite is located made valuable by the improvements thereon made by said citizens.

Vancouver, January 28th, 1860.

Names: Thos. L. Buckel, John Aird, Richard Stegert, C. H. Woodard, M. L. Armstrong, David Reed, H. S. Burlingame, C. F. Short, D. Munroe, B. P. Vivion, Joseph Wise, H. Haas, E. J. Calvin, T. B. Mitchell, William Snooks, Andrew Riggs, President Durgan, James H. Alexander, Geo. W. Jones, R. Sutherland, C. A. Ross, Ezra Durgan, M. B. Short, John Proebstel, J. W. Smalley, W. C. Riley, L. Brooke, Wm. J. Rankin, Chas. B. Wagoner, J. H. Neyce, A. Pamburn, Jacob Boott, Simon Kaiser, R. J. Moore, E. H. Lewis, G. T. McConnell, Geo. W. Martin, Abel G. Tripp, Louis Johns, N. Hewrikson, F. Hewrikson, John ——, Wm. N. Carles, G. W. Birney, Edward Gibson, G. W. Brady, Jas. Turnbull, Louis Lieser, W. F. Crate, John Stensgair, Thomas Bird, Wm. M. Simmons, Joel Knight, W. W. Adams, Russel Buck, B. S. Gardner, Elkbert Selah, W. C. Tamer, Thos. K. Trumbull, Geo. N. Nye, C. H. Vincent, E. L. Dole, Geo. Farnsworth, John Tooley, John S. Tooley, G. J. Tooley, D. N. Stillz, Rob't Rankett, James Brady, A. K. Gates, J. F. Harvey,
1132 John Bryan, S. D. Maxon, W. A. Abbott, H. Martin, B. F. James, Wm. Goodwin, Peter Stice, Frederick Miller, W. J. Goodwin, M. E. Goodwin, S. L. Peasley, John Eddings, A. J. Wren, Joseph Learny, Edward Loane, John Flaney, James Campbell, S. C. Achilles, Daln. Healey, M. F. Stryker, Geo. Groom, John Bouser, Solomon W. Fisher, Charles H. Kehl, Jay D. Potter, Henry Green, Am Stacker, Edward McCarty, John McCarty, Edward Roberts McCarty, John L. G. Smith, F. Dehm, Isaac Copeland, W. H. Sleits, Gibson Millard, Edwin Leach, Geo. W. Holmes, James H. Bouser, John F. Devoce, Gustar Ebert, William Bennet, John Williams, I. Hexten, C. J. Feitz, Fred. Fink, Henry Weinhard, W. G. Langford, P. S. Martoick, John F. Smith, Joseph Brant, Joseph Timmon, Geo. Baxter, E. B. Smith, Abram Kinsey, Charles Quail, John Bargy, William Holstein, John Heyen, John Fainburt, Thomas McDowell, Daniel Alls, W. S. Bennington, Thomas Davis, E. G. Browne, Owen Piner, G. B. Ermet, W. Townsend, Joseph Durgan, James Dairden, D. R. R. Powers, Wm. C. Hazard, D. K. William, James Ubear, Chs. F. Mueller, David Quain, Nicolay Nisgen, L. Jolluff, Samuel P. Maish, H. S. Brockway, George Baty, T. W. Hughes, D. Monger, Abner E. E. Armstrong, Mary B. Short.

(Endorsed:) Petition and remonstrance of Thos. L. Brickell and others in reference to the pretended St. James mission at Vancouver, Washington Territory. "A."

1133 To Honorable Samuel A. Smith, Commissioner of the General Land Office of the United States:

The undersigned, citizens of Vancouver, in Clarke county, Washington Territory, and others who have an interest in the town site on which Vancouver is built, respectfully represent that as yet it has been impossible to enter said town site under the act of 1844, because it is on land claimed by the Hudson Bay Company under the treaty of 1846 and has not been surveyed.

That when the rights of said company shall be extinguished or limited or defined the undersigned expect and believe they have a

right to cause said site to be entered, and that their roights therein will be respected and secured; that while they have been waiting for the opportunity of causing such entry to be made certain persons, believed to be Messrs. Blanchet and Bronillet, by falsely representing at the General Land Office that there was a mission station at Vancouver, called St. James mission, at the time the act was passed organizing the territorial government of Oregon, have induced said office to direct a survey of the land claimed as a mission station; that said land embraces the town site of the city of Vancouver, the county buildings of said Clarke county, and the trading post of the Hudson Bay Co., and all the stores, buildings, fort, and improvements of said company, and also the military reservation, with all barracks, quarters, and offices of the U.
1134 S. Army; that said pretended mission station is a wicked fraud, founded on the most outrageous and false representations; that in 1848 all the mission there was at Vancouver or on the land claimed by said Blanchet and Bronillet as "St. James mission" was a small Catholic chapel owned by the Hudson's Bay Co., who built it and permitted it to be used for religious purposes by their chaplains.

That no mission ever existed on said claim till the year 1852, nor even then except by permission of said company, and that then and now the church which it is pretended is a mission church was and is the property of the Hudson's Bay Company, and that the whole pretence of such St. James mission is notoriously fraudulent and known to be so to every resident of Oregon — 1848.

That if this pretended claim is allowed and confirmed a flagrant wrong will be done to the citizens of Vancouver and of Clarke county, to the army property of the United States, and to the Hudson's Bay Company, inasmuch as the rights of the said parties will be thereby wrested from them; that if opportunity is allowed all the foregoing representations can be proved to be true, and the rights of the citizens of Vancouver to so much of said pretended St. James mission as is embraced in said town site can be shown to be valid in law and in equity.

Wherefore the undersigned respectfully file this as their caveat to the approval of the survey of said claim and the confirma-
1135 tion of the same to said parties pretending to represent said St. James mission, and they further ask that a survey may be had of said land, so that said town site may be entered according to law.

Vancouver, 28 Jan'y, 1860.

Rufus Ingalls, U. S. Army; Summer Barker, H. C. Turner, P. A. Hern, B. F. Preston, M. C. Israel, Hiram Cochran, I. P. Gosahue, James A. Frisbee, William H. Pope, Gay Hayden, W. L. Stabler, Lander Holmes, I. F. Boweles, William Lone, Thom. ——, A. B. Lathrop, D. R. Fales, E. R. Morse, Preston Laives, B. W. Pickens, Solomon Strong, county commissioner; Ezra Strong, J. Lee, John Galpir, Pierson Patten, David H. Kenyon, Taheri Robinson, John S. Boswith, A. Russel, N. O. Kelly, J. H. Blacketer, J. H. Vanbiber,

Hezekiah Caples, John Caples, Wm. D. Alley, Joseph Blacketer, R. J. Scott, John Springer, Jacob John, Charles K. Kraft, Stephen Shobert, G. C. Chase, Posey Williams, J. A. Woodin, C. C. Bozarth, S. Bozarth, James Mitchell, C. W. Slocum, Jno. L. Dickson, E. A. Slocum, D. H. Hendee, Wm. B. S. Higgins, Geo. W. Hart, C. C. Stiles, M. Hexter, Levi Hexter, Elek Murphey, P. M. Buchannan, Isaac Marker, D. Falk, Louis Bhimawer, John S. Brunner, O. W. Bozarth, James H. Campbell, D. Parker, William Bratton, George T. Spurgeon, Stephen D. Bouser, Rob't German, Geo. L. Hibbard,
M. Woodard, John Avid, James Griffin, S. Stanley, Green
1136 Parker, John H. Lundquist, Jobe Fitcher, Allen Austin, Archille Baer, John Taggy, M. Winteler, T. F. Spahr, John Turner, Richard Pugh.

(Endorsed:) Petition and remonstrance of Rufus Ingalls *et als.* in reference to the pretended St. James mission at Vancouver, Washington Territory. "B."

(Endorsed:) No. 47. Interior Department records. Filed by defendants April 6th, 1888. W. Byron Daniels, referee.

1137 Examined.

DEPARTMENT OF THE INTERIOR, D. T.
GENERAL LAND OFFICE, W. D. S.
WASHINGTON, D. C., *March* 27, 1888.

I, S. M. Stockslager, acting Commissioner of the General Land Office, do hereby certify that the annexed copy of a document in the matter of the St. James mission and others, claimants to certain lands at Vancouver, Washington Territory, transmitted to this office by the surveyor general of said Territory, with his letter of April 29th, 1863, pursuant to telegraphis instructions given him by this office April 13th, 1863, is a true and literal exemplification of said document as the original thereof appears on file in this office.

In testimony whereof I have hereunto subscribed my name and caused the seal of this office to be affixed, at the city of Washington, on the day and year above written.

S. M. STOCKSLAGER,
[SEAL.] *Acting Commissioner of the Genl. Land Office.*

[Endorsed:] No. 48. Interior Department records. Filed by defendants April 6th, 1888. W. Byron Daniels, referee.

1138 G. 19,262.

Catholic mission, 1840 to 1841, to Fort Vancouver sale shop, p'r following supplies, viz., outfit, 1840:

1840.								
March	7.	To ¼ bush. timothy	57		1	3		
		¼ gal. clover	87		1	0		
		1 com. Osnaburgh bag, P. D.	2/		2	0		
		68 lbs. mould candles & box	1/	3	8	0		
		2 oz. cotton wick	3/3			5		
"	11.	3½ lbs. 1¾-in. rope	8		2	4		
		6 lbs. com. round beads	1/6		9	0		
		⅓ quire stout cartridge paper (Mr. Demerd)	1/3			10		
		1 bottle *Mederia* wine, D.			5	9		
		1 bl'k lead pencil	5			5		
		1 set plough irons, complete set, 70 lbs. c.	1/	3	10	0		
		By 50 lbs. wrought iron, being difference between 1 lar. & sm. ox chain	1/				2	10 0
	19.	Paid F. N. Blanchet's note, 9th March, 1-40, in favor John Rowlands, for, as p. bill book		12	10	0		
		1 p's office tape				9		
	22.	Paid F. N. Blanchet's note, 20th March, '40, in favor John Rowland, for		2	10	0		
	25.	To F. N. Blanchet's note, 23rd inst., in favor John Finlay		17	10	0		
	26.	21 lbs. hoop iron	6		10	6		
		250 cooper's large rivets, 1¾ lb.	9		1	4		
		12 tin milk *turners*	2/10	1	14	0		
		2 " " strainers	2		4	0		
		" 6 E. ware cups & saucers	1/6			9		
		1 shell auger, 1 in.	3/5		3	5		
		3 hand-saw files	3		1	3		
		1 socket chisel	1/6		1	9		
		Am't carried forward		43	17	0	2	10 0
1139								
		Am't brought for'd		43	17	0	2	10 0
Mar.	26.	1 tin kettle, No. 1	5/9		5	9		
		1 " D. " 5	3/		3	0		
		1 grooving axe	2/10		2	10		
		1 carpenter's adze	2/3		3	2		
		12 yds. fine striped cotton	2/2	1	6	0		
		6 English bale covers	3/		18	0		
		1 jack-plane, d'ble	6/3		6	3		
		1 cross-cut saw, 6 feet		1	3	6		
		15 lbs. yellow soap	8		10	0		
		1 gall. lamp oil			5	3		
		6 lbs. com. round ap. beads	1/6		9	0		
		½ " eld. thread	2/8			4		
		7 feet flour machine wire, No. 44, 1¼ sheet	6/9		11	10		
		1 fine penknife			4	6		
April	1.	By Laurent Kaunhitchgos' note, 28th March					1	1 6
		To 8 lb. ball	6		4	0		
		4 lbs. gunpowder	1/3		5	0		
		6 yds. com. blue strouds	4/11	1	9	6		
		4 cotton handk'fs	1/5		5	8		
		1 doz. bone vest moulds	1			1		
		10 yds. com. striped cotton, p'r D.	1/11		19	2		
		2 tin kettles, 1 ea., No. 7 & 10, p'r D.			2	8		
		The following supplied Mr. Blanchet:						
	8.	1 flat bast'd file, 8 in.				8		
		1 com. Osnaburgh bag			2	0		
		1 grease bag			3	0		
		1 cross-cut saw file, 6½ in.				8		
		1 flat rasp, D. 12			1	3		

		7 lbs. Manilla rope	1/3	8	9		
		4 galls. fine salt, ½ bush.	5/	2	6		
		1 lb. pepper			8		
		1 quire stout cartridge paper	3/3	3	3		
		Am't carried for		54	16	3	3 11 6
1140							
		Am't brought forward		54	16	3	3 11 6
April	8.	½ lb. col. thread	2/8		1	4	
		1 p'r com. drab-cloth trowsers	11/		11	0	
		1 duck frock	5/3		5	3	
		1 hand-saw	6/2		6	2	
		12 sickles, rot. teeth No. 3	10		10	0	
		1 bush. pease	4/6		4	6	
		20 lbs. com. biscuit	4		6	8	
		6 " fine D.	5		2	6	
		1 bus. potatoes	1/5		1	5	
		2½ lbs. yellow soap	8		1	8	
		1 " gunpowder	1/3		1	3	
		4 " ball.	6		2	0	
		3½ " rope, ¾ in.	8		2	4	
	9.	26 bush. potatoes	1/5	1	16	10	
		10 " pease	4/6	2	5	0	
		6 com. cloth capot-s, 4 ells	19/6	2	18	6	
		6 yds. red baize	3/9		16	6	
		2 com. cotton shirts	3/		6	0	
		2 pit-saw files	8		1	4	
		Mr. Demers p'r an Indian.					
	24.	1 tierce Columbia salmon		2	8	9	
		6 pit-saw files	8		4	0	
		1 fine wool hat	7/6		7	6	
		1 oil-skin hat cover	3/2		3	2	
		16½ lbs. ¾-in. rope	8		11	0	
May	1.	1 cod line, 24 threads, Mr. Demers, p'r Mr. Blanchet	3/9		3	9	
	5.	1 smoothing iron	1/6		1	6	
		8 balls cotton thread	3		2	0	
		12 sickles, W. H. teeth No. 3	10		10	0	
		4 stock locks, 10 in., screw-, and barrel	5/9	1	3	0	
		3 sacking bags	2/4		7	0	
		Am't carried forward		£71	13	2	3 11 6
1141							
		Amount brought forward		71	13	2	3 11 6
May	5.	4 lbs. twist tobacco	1/6		6	0	
		1 sheeting tent, 12 ells		2	12	6	
	7.	1 hair trunk, English			13	6	
		1½ bus. pease	4/6		6	9	
		1 cod line, 24 threads	3/9		3	9	
	9.	Paid Mr. Demerese'- note, no date specified, in favor of M. Coltonaire, for 30		1	10	0	
	11.	Paid Mr. Blanchet's note, 14 inst., as p'r bill book this date		7	0	0	
		3 yds. green list cloth	5/7		16	9	
		2 lbs. yellow soap	8		1	4	
		5¼ yds. striped cotton	1/11		10	1	
		4 " navy blue "	9		3	0	
		(To Palraini's child, an order, for Mr. Blanchet.)					
		Passage money of 4 men, p'r barque Vancouver, from Wowhoo to Vancouver	£5.7	20	0	0	
June	11.	To F. N. Blanchet, note 9th June, '40, in favor of Joseph Rocguibrune	6	6	0	0	
		To F. N. Blanchet, note, 4th May, for £8, in favor Alexis Aubichon		8	0	0	
	17.	4 cheveur skins	1/6		6	0	

		1 p'r drab-colored trowsers @ 9/11			9	11		
		2 com. cotton shirts @ 3/			6	0		
		1 com. blue-cloth carpet, 3½ ells @ 18/			18	0		
		1 doz. plaited jacket buttons @ 1/2			1	2		
		⅛ lb. black thread @ 2/11				2		
		1 com. blue-cloth vest @ 7/6			7	6		
	20.	1 tin box, 1½ x 1½ in., 14 in. long			2	6		
	22.	1 p'r combs			1	10		
		3 chevunil skins @ 1/6			4	6		
		1 cod line, 24 threads @ 1/9			3	9		
		2 com. cotton shirts @ 3/			6	0		
		1 spade, No. 4, Mr. Blanchet @ 4/6			4	6		
		Amount carried forward		123	8	8	3	11 6
1142								
		Amount brought forward		123	8	8	3	11 6
June	22.	36 lbs. 24 clench nails @ 10		1	10	0		
		1 quire stout cartridge @ 3/3			3	3		
		1 C. C. shingling nails				6		
		1 clack line @ 9				9		
		P'r Mr. Blanchet.						
		3 sheeting bags @ 2/10			8	6		
		5 lbs. fine biscuit @ 5			2	1		
		18 " com. " @ 4			6	0		
		1 " butter @ 1/			1	0		
		20 " salmon @ 2			3	4		
		1 " gunpowder @ 1/3			1	3		
		P'r Mr. Demers.						
	24.	1 p. shoes pc. ⅚			10	2		
		4¾ yds. com. pst. cotton @ 11			4	4		
		4 lbs. ball @ 6			2	0		
		2 " shot @ 6			1	0		
		2 " com. cotton beads @ 1/8			3	4		
		2 " T. P. F. gunpowder @ 1/3			2	6		
	26.	4 " twist tobacco @ 1/11			7	8		
		1 doz. needles @ 2				2		
		Mr. Demers.						
		1 tin coffee-pot			4	6		
1840.								
March	13.	4 hooks, p. traces irons, 3 singletrees, 14 lbs. 1/			14	0		
	18.	12 hooks, p. traces, 4 pins, p. cart shafts, 4 rings, p. cart shafts, 14 buckles, p. harness, 6 rings, p. harness, 40 lbs. @ 1/		2	0	0		
		2 shingle knives, 1 drawing D., 1 p'r door hinges, irons p'r 2 ox yokes, 17½ lbs. @ 1/			17	6		
		Amount carried forward		131	12	6		
1143								
		Amount brought forward		131	12	6	3	11 6
M'ch	20.	10 buckles, 2 rings, 4 bridle bits, 2¾ lbs. @ 1/			2	9		
	25.	12 hooks & thimbles, p'r traces, 9 rings, p'r saddle girths, 9¾ lbs. @ 1/			9	9		
		1 iron fort, 1 frying pan repaired			1	0		
	26.	1 double spout hanging lamp @ 4/6			4	6		
		1 screw-bolt, 6 lbs. @ 1/			6	0		
		1 ox chain, 66 " @ 1/		3	6	0		
April	8.	4 bridle buckles, 4 pins ox yokes, ½ lb. @ 1/				6		
		1 round adze			3	5		
May	7.	4 iron rings, p'r wheels, 4 iron boxes, D., 29 lbs. @ 1/		1	9	0		
		1 broad-axe, 9 lbs. @ 1/			9	0		
June	29.	1 p'r compasses			2	6		
		200 7-in. spikes, 7 lbs. @ 10			5	10		
		Iron works repaired, ½ day's work @ 1/6			2	6		
M'ch	11.	1 large ox chain, 1 sm. ox chain, 80 lbs. @ 1/		4	0	0		
July	3.	2 scythes, 40 ins. @ 4/9			9	6		
		14 lbs. iron hoops, 1¼ x ⅛ @ 6			7	0		

	7.	Paid F. M. Blanchet's note, this date, as p'r bill book, in favor of I. Rocgubruce, 8	8	0	0		
	9.	Paid F. N. Blanchet's note, 3rd July, '40, in favor Hyceuth Desloges del Lavegure, for £2 10p.	2	10	0		
		Paid F. N. Blanchet's note, 9th July, '40, in favor H. Laderoute, for $22	5	10	0		
		Amount carried forward	159	11	9	3	11 6
1152							
		Am't brought forward	159	11	9	3	11 6
July	9.	Paid F. N. Blanchet's note, 4th July, '40, in favor Jos. Rocqueburn, for 7	7	0	0		
	15.	Paid F. N. Blanchet's note 11th inst. in favor Jos. Rocqueburn, for 23, 19, as p. bill book this date	23	19	0		
	17.	Paid F. N. Blanchet's note, 3rd July, '40, in favor Jos. Rocqueburn, for 17	17	0	0		
	3.	To 1 iron square, 2 sets iron- for scythes, irons for a bucket, 23½ lbs.	1	3	6		
		1 waggon pin, 15 ins. x 1½, 1 wagon pin, 9 x 1, 1 saw-set, 1 wood marker, 3¼ lbs., steel 2/3		1	8		
	20.	To F. N. Blanchet's note, 30th June, in favor Jas. Rocqueburn, for 3	3	0	0		
Sept.	6.	2 galls. Teneriffe wine 16/	1	12	0		
		2 bush. com. salt 5		10	0		
		3 com. cotton shirts 3/		9	0		
		100 $ salt salmon 2		16	8		
		4 bl'k lead pencils, H. H. 6/		1	8		
		5 sheets tin, S. D. XX 6		2	6		
		4 doz. mo. pearl buttons 5		1	8		
		7½ p. hoop iron, ¾ x 1/10 6		3	9		
		4 p. gum 2			8		
		½ p. col. thread, No. 10 2/8		1	4		
		1 candle mould, 4 casts		5	0		
		1 lantern		3	5		
	8.	1 p. stirrups		2	0		
	15.	Car'd forward	216	5	7	3	11 6
1144							
		Amount brought forward	216	5	7	3	11 6
Sept.	15.	To F. N. Blanchet's note, 19th Aug., '40, in favor William Bailey, for $2.45 & 7/6	19	9	0		
		Paid F. N. Blanchet's note, 31 Aug't, '40, in favor Jas. Rocqueburn, for 5, as p'r bill book this date	5	0	0		
		By transfer Dr. Michel Laframboise				2	
		" " " Louis Fercier				4	
Oct.	1.	By one coffee-pot returned					4 6
		To 2 lbs. fresh twist tobacco 1/8		3	4		
		1 doz. gun-flints			3		
		1 standing lamp		1	8		
		2 oz. cotton wick			5		
		6 Bt. M. table-spoons 3		2	6		
		1 tin funnel			8		
		1 saucepan		3	7		
	9.	400 nails, 24 sharps, H. 10		8	0		
Oct.	19.	2 lbs. soap 8		1	4		
		1 bl'k't, 3 p'ts, bl'ts.		13	0		
		½ paper pins 9			5		
		2 doz. needles 2			4		
		¼ lb. col'd thread, # 30			11		
		3 cotton handk'fs 1/5		4	3		
		2 yds. com. blue strouds 4/11		9	10		
		1 pair youth's shoes		6	3		
		Delever Mr. Demers, p'r Tetrons' wife.					
		2 bl'k'ts, 3 p'ts, B. B. 13/	1	6	0		

		½ lb. stitching thread, # 90	8/		4	0		
		½ lb. black D. #25	2/11		1	6		
		4 cotton handk'fs	1/5		5	8		
		3 lbs. Hyson tea	3/9		11	3		
		1 doz. gun-worms	5			5		
		1 p'r drab cord. trowsers			9	11		
		2 bl'k'ts, 2½ p'ts, B. B.	10/3	1	0	6		
		Amount carried forward		229	1	4	9	16 0
1145								
		Amount brought forward		229	1	4	9	16 0
Oct.	19.	4 boat pans	1/3		5	0		
		3 lbs. cocoa, p'r Mr. Demers	9		2	3		
		6 bbls. Columbia salmon	25/	7	10	0		
	20.	2 canvass shot bags	1/4		3	10		
		14 lbs. putty	6		7	0		
		28 " shot	6		14	0		
		20 " gunpowder	1/3	1	5	0		
		28 " ball	6		14	0		
		3 com. cotton shirts	3/		9	0		
		1 snak-knife	2/6		2	6		
		1 water-proof hat, 41 c. pc., 5/6			8	3		
		84 pain-s glass, 7½ x 8½	9	3	0	0		
		2 but. metel ladles	2/3		4	6		
		10 chev. skins	1/6		15	0		
		1 padlock, 1½ inches	9			9		
		2 canvass bags p'r salt	1/11		3	10		
		1 cod line db'l. 24 threads			7	6		
		1 oil-silk hat cover			3	2		
		14 lbs beaver shot	6		7	0		
		1 " bl'k lead	9			9		
		1 Canada stove, 36 in.		9	0	0		
	21.	2 lamps-feeders	1/8		3	4		
		3 pipes	1			3		
		1½ yds. hair ribbon	3			5		
		1 bun. Holland twine	2/3		2	3		
	24.	To F. N. Blanchett's note, 16th June, '40, in favor of Simon Plomondon for $8. 10. 6		8	10	6		
		1 saucepan			3	7		
		2 ball cotton wick, ⅕ lb.				10		
		1 standing lamp			1	8		
		12 yds. fine striped cotton	2/2	1	6	0		
		Amount carried forward		265	16	6	9	16 0
1146								
1840.		Amount brought forward		265	16	6	9	16 0
Oct.	24.	3 lbs. rattier	8		2	0		
		6 " Hyson tea	3/9	1	2	6		
		6 yds. com. blue strouds	4/11	1	9	6		
		6 B. blue list cloth	5/7	1	13	6		
		17 lbs. soap	8		7	4		
		3 " Am. plug tobacco	1/11		5	9		
		1 com. cloth carpet, 4½ ells		1	1	0		
		6 plain blankets, 3 pts. B. B.	13/	3	18	0		
		¾ lb. stitching thread, No. 90	8/		3	7		
		½ " bl'k d-., No. 25	3/11		1	6		
		6 pipes				6		
		1 large tin tray			8	0		
	26.	1 stand-lamp			1	8		
		2 bottles turpentine	2/		4	0		
		6 cotton handk'fs	1/5		8	6		
		2 com. cotton shirts	3/		6	0		
		1 p'r shoes pc., 5/6			8	3		
		1 " d-. Wellington			10	6		
		1 tin kettle, No. 1			5	9		
		9 lbs. cov. copper kettles	3/5	1	10	9		

		1 powder-horn			3	0		
		1 scalping knife			8	0		
		1 tin funnel				7		
		1 jacket lamp			1	3		
		8 yds. com. printed cotton	11		7	4		
	27.	5 quire- ruled foolscap paper	1/9		8	9		
		3 " 4*th* past d-.	1/3		3	9		
		1 tin turreen			6	3		
		2 p'rs com. cloth trowsers	11/	1	2	0		
		2 Osnabrugh bags	2/		4	0		
	28.	6 knives and forks	1/3		7	6		
		6 Brit. M. table-spoons, doz.	3/9		1	11		
		Amount carried forward		283	12	1	9	16 0
1147								
		Amount brought forward		283	12	1	9	16 0
Oct.	28.	1 dipper			1	8		
		63 W. deep plates	10		5	0		
		6 W. cheese D.	8		4	0		
		2 quire- stout cartridge paper			3	3		
		5 galls. lamo oil	5/3	1	6	3		
		1 jar E. ware, p. D.			5	0		
	29.	1 Canada stove, 36 in.		9	0	0		
		234 panes window glass, 7½ x 8½		8	15	6		
		68 lbs. candles	1/	3	8	0		
		14 " putty	6		7	0		
		¼ c. blue string quil-s, pc. 10/	15/		3	9		
		2 quires 4*th* post paper	1/3		2	6		
		6 boat pans	1/3		7	6		
		By the following C. transfers, viz:						
		By transfer Dr. Basil Paisier					1	0 0
		" " " Amable Petit						10 0
		" " " Jean Heronx						15 0
		" " " Adolph Chamberlain					1	0 0
		" " " Etinne Fortine					1	0 0
		" " " Silvan Bourgean						10 0
		" " " Louis Vasal						15 0
		" " " Oliver Bouchard						10 0
		" " " Jpseph Landance					1	0 0
		" Thos. Roy's note, 27th April, '40						12 6
		" P. S. Ogden's note, 13th Feb'y, '40					3	0 0
		" Joseph Rocqueburne's note, 11th May, '40						7 6
		" P. C. Pamburno D.					8	0 0
		By Chas. Rondean's note, 17th Mar., '40						15 0
		" Jean Denais dit Jeremie's note						3 6
		" Antoine Mastai's note, 3rd Feb'y, '40						17 0
		Amount carried forward		308	1	6	32	11 6
1148								
		Am't brought forward		308	1	6	32	11 6
Oct.	29.	By transfer D. Antoine Azure						10 0
		" " Censer Beaudoin						10 0
		" " Felix Bergevin						10 0
		" " I. B. Corbeill						10 0
		" " Joeffrey Jobin						10 0
		" " Louis Kanata						10 0
		" " F. X. Leard						10 0
		" " Martialle Lavalle						10 0
		" " Fabien Malais						10 0
		" " Jein Maunka						10 0
		" " Maku						10 0
		" " Ohpoonnay						10 0
		" " Jacs Ploughlay						10 0
		" " Louis Rondean						5 0
		" " Augusten Russil						10 0

	" "	Thomas Smith					10	0
	" "	Louis Shaegaskatta					10	0
	" "	I. Bte. Tyeguarich					10	0
	" "	Louis Vandalle, B.					10	0
	" "	Louis Vives					10	0
	" "	James Wayfield					5	0
	" "	So. Party, p'r Wasaiack					1	0
	" "	& Wakaska				1	0	0
Nov.	2. Paid F. W. Blanchett's note, 19th Oct., '40, to T. Paisier, p. bill book		4	1	0			
	By the following credits, viz:							
	By transfer	D. Joseph Rocher				1	0	0
	" "	Eteinne Loyalle				1	0	0
	" "	Oliver Comtrowen					10	0
	" "	Ignace Lozeire					15	0
	" "	Dom. Leclaire					15	0
	" "	Francaise Denoyer					10	0
		Carried forward	312	2	6	48	1	6
1149								
		Amount brought forward	312	2	6	48	1	6
Nov.	2. By transfer	D. Perre St. Andre					15	0
	" "	I. Bte. Laportrie					10	0
	" "	Louis Pechette				2	0	0
	" "	John Simpson				1	0	0
	" "	Joseph Bourgenee				2	0	0
	" "	Joachim Lapleur				1	0	0
	" "	Charles Chartier				1	0	0
	" "	Joachim Thibeault				1	0	0
	" "	Michel Lovanix					10	0
	" "	Joseph Lefean dit Borien				1	0	0
	" "	Thomas Laird				1	0	0
	" "	Louis Vandall, A.				1	0	0
	" "	Pierre Goin				1	14	0
	" "	Jacques Servant					10	0
	" "	Theodore Larance				1	0	0
	" "	Cuthbert Robillard				1	0	0
	" "	Alexis Laprade				1	0	0
	" "	Jos. Bthe. Jean					10	0
	" "	Rheni Selahoany					10	0
	" "	Umphreirlle Canoli					10	0
	" "	Pierre Dubois					10	0
	" "	Nalaine Dupre					15	0
	" "	Louis Provein				1	0	0
	" "	Alexander Dumond					10	0
	" "	J. Bte. Lagaie					15	0
	" "	J. Bte. Braconnier				1	0	0
	" "	J. Bte. Ourre						
	" "	Joseph Pin				1	0	0
	" "	Louis Latour dis Ballerd				1	0	0
	" "	Jean Rivard					10	0
	" "	Pierre Lacourse				1	10	0
	" "	Joseph Gervais				3	4	0
		Car'd forward	312	2	6	80	4	6
1150								
1840.		Amount *carried* forward	312	2	6	80	4	6
Nov.	3. *Bt.* transfer	D. Louis Ioicier					10	0
		Pierre Bellegue				1	0	0
		Etenne Louciere				1	17	0
		Thomas Roy				1	0	0
		Xavier Leguin dit Laderate				1	0	0
		Andre Picaret					10	0
		Alexis Aubichon					10	0
		Louis Anvet					10	0

		Falien Malois				1	10 0
		Louis Vandalle, B.					17 0
		James Warfieed				1	0 0
		Louis Opisi					10 0
		J. Bte. Perrault					15 0
		Louis Salaute					4 0
		Antoine Duquette					17 6
		J. Bte. George des Colman					4 0
	13.	To deb. Paul Guilbean for Mr. Demeres:					
		2 sheete tin S. D. x W. 6		1	0 0		
		1 cross-cut saw, 4 feet			16 2		
		10 lbs. soap 8		6	8 0		
		2 " starch 9		1	6 0		
		3 dbl. bolt padlocks, 3 in. 2/1		6	3 0		
		6 c. 4 tacks, M. 2/9			1 8		
		4 plain blankets, 2½ pts. B. B. 10/3		2	1 0		
		1 Furness chisel 1/5			1 5		
		Mr Demer's note to Paul Guilbean		10	0 0		
	17.	3 bushels salt 5/			15 0		
		1 bal*l*el p. salt, F. D.			5 0		
	27.	300 nails, 20 clasp, 6 lbs. 10/			5 0		
		300 6 shingling, pr. Joe Rivet. 3/9			1 2		
Oct.	9.	400 spikes, 6½ in., 53¼ lb. 1/		2	13 6		
		Irons for three doors, complete, 19 lbs. 1/			19 0		
		Amount carried forward		330	16 10		
1151							
1840.		Amount brought forward		330	16 10	92	19 0
Oct.	20.	2 wafer-cutters, 1 day's work 3/9			7 6		
		1 p'r tongs rep'd			4 0		
	21.	1 set door hinges, complete, 1 half-square headed axe			7 0		
	22.	9 sheete stovepipe, we'gt 121½ lbs., & making, &c.		3	10 9		
		2 elbows, p'r D. 10/			13 0		
		1 small sheet-iron stove pan			6 6		
		4 tin porringers, w't. covers 1/3			5 0		
		4 " boxes, 2 in. diameter 1/			4 0		
		17 yds. wire, 3 lbs. binding 1/4			4 0		
		1 tin tinder-box			9		
		2 kegs, for stovepipes 1/6			3 0		
		1 meat box repaired			6		
Nov.	19.	1 half-bushel measure			6 0		
	13.	6 staples, 3 hasps, 1 p'r compasses, p'r Mr. Demerse			4 0		
		F. N. Blanchet's note in favor of H. Desloges dit Lavageme, dated 16 Nov., 1840		9	0 0		
		F. N. Blanchet's note in favor of H. Desloges dit Lavageme, dated 16 Oct., 1840		40	10 0		
		8 doz. comp. quinine powders 1/			8		
		2 " vomits 2/6			5		
		2 purges 2/6			5		
		Transfer cr. Kancenkai		11	0 5		
		" " Palupalu		11	5 0		
		" " Mano		13	5 8		
		" " Nahumuhunn		11	4 5		
		1 pair stir-ups (in Sept.)					
		A/c't of sup-lies to Aug. Rochon		5	11 3		
		" " " Paul Ginebean		9	3 6		
		" " " Messrs. Blanchet and Demeres from Depense					
Feb.	13.	3 lbs. loaf-sugar 8			2 0		
		Amount carried forward		449	17 2	92	19 0

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1840.		To am't brought forward			449	17	2	92 19 0
Feb.	13.	½ lb. Twankey tea	2/5			1	3	
		2 lbs. butter, Mr. Demers	1/2			2	0	
		2 loaves of bread	8			1	4	
March	26.	½ lb. Hyson tea	3/9			1	11	
		4 " loaf-sugar	8			2	8	
		5 " fine biscuit	5			2	0	
		1 Osnaburgh bag	2/			2	0	
		3 loaves bread, Mr. Blanchet	8			2	0	
April	2.	10 lbs. fine biscuit	5			4	2	
		2 " butter	1/			2	0	
		1 " Twankey tea				2	5	
		4 " loaf-sogar, Mr. Demers	8			2	8	
May	7.	5 " " "				3	4	
		1 " Twankey tea				2	5	
		2 " butter	1/			2	0	
		7 " salt beef	6			3	6	
		2 loaves bread	8			1	4	
		6 lbs. fine biscuit, Mr. Blanchet	5			2	6	
		20 " com. "	4			6	8	
Sep.	3.	1 loaf bread					8	
		1½ lbs. pork, Mr. Rochon	7				11	
Oct.	9.	3 lbs. butter	1/			3	0	
		6 " fine biscuit	5			2	6	
					452	12	6	92 19 0
		Less error, note to A. Aubichon, £8 instead $8, difference			6	0	0	
					446	12	6	
		Less credits			92	19	0	
		Cav.			353	13	6	
		Carried forward			353	13	6	

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1840.		Am't brought forward						353 13 6
May	27.	Nesqually supplies:						
		To 1 com. wool hat				7	0	
June	5.	" 3⅓ yds. com. blue shrouds	6/6		1	1	8	2 10 4
		Edmonton supplies:						
1838.								
Sept.	8.	1 grey milled cap				1	11	
		¼ yd. H. B. blue strouds	10/6			5	3	
		3½ blue duffle, M. Blanchet	9/9		1	14	2	
		½ " H. B. blue strouds	10/6			5	3	
		3½ " blue duffle, Mr. Demers	9/9		1	14	2	
		3 lbs. yellow soap	6¾			1	8	
								4 2 5
1839.		H. Vancer Ind. supplies:						
Feb.	29.	1 yd. baize to an Ind., p'r order Mr. Demerss				3	8	3 8
1839.		Thompson river supplies:						
Sept.	—.	1 calico shirt				3	9	
		20 balls				1	0	
		2 yds. green baize	3/4			6	8	
								11 5
		Freight from England, p'r Columbia			3	12	1	
		Do. " " Fonayer			1	15	0	
								5 7 1
		Amount carried forward						336 8 5

1155

		Cont. & am't bro't forward				366	8 5
1840.		Fort Vanc. Ind. supplies :					
March	17.	To 1 com. cotton shirt	4/		4 0		
		" 2 yds. red baize	3/8		7 4		
		¼ H. twist tobacco	2/		6		
		¾ bushel pease	4/6		3 5		
		16 yds. cod line	1		1 4		
		3 lbs. grease	3		1 6		
		10 chi. am-unition			6		
		1 tin kettle, # 8			2 4		
		½ lb. tobacco	2/		1 0		
		(Supplied Indians sent woth cattle & horses to the Cowlitze:)					
April	1.	4 yds. red baize to an Indian for a trip to Wart with Mr. Blanchett	2/8		14 8		
	2.	60 lbs. salt salmon	2		10 0		
		30 " *bu*iscuit	3		7 6		
		6 yds. red baize, Mr. Demers' trip to Cowlitz	3/8	1	2 0		
	24.	1 mat bay, 92 yds. red baize	7/4		8 1		
		1 fire-steele			6		
May	7.	1 com. cotton shirt	4/		4 0		
		6 yds. green baize	3/4	1	0 0		
		1 ash basket			1 0		
		35 lbs. salt salmon	2		5 10		
		To 4 Indians, p'r order Mr. Blanchet.					
June	26.	2 lbs. beaver shot	8		1 4		
	29.	3⅜ " green baize	3/4		14 3		
		(Mr. Blanchett, Indians.)					
		1 fire-steel			6		
		28 lbs. *bu*iscuit	3		7 0		
		3 dried salmos	4		1 0		
		3 baize caps	9		2 3		
		1 fort tobacco	2		4		
		5 lbs. *bu*iscuit	3		1 3		
		(To 4 Indians for agreeing to go to the Cowlitze w'h Mr. Demeres and ret'g when half-way down the river.)					
	9.	6 ps. dried salmon	2		1 0		
	17.	1½ lbs., 5, 1 pt. mol., 9			1 2		
	19.	2 yds. baize, red	3/8		7 4		
		1 qt. molasses, paid for loan of canoe and damage for same	6		1 6		
		7 chs. amm., 5; 1 fire-steel, 6			11		
		Am't carried forward		7	13 4	366	8 5
1156							
		Cont. & am't brought forward		7	13 4	366	8 5
Oct.	22.	1 tin kettle, # 5	4		4 0		
		10 p. dried salmon	2		1 8		
		4 salt do., 30 lbs.	2		5 0		
	28.	1 cotton shirt					
		2 " do.	4/		8 0		
		(Paid 3 Indians for a trip to the Cowlitze.)					
		2 mats	3		6 0		
Nov.	3.	4 yds. green baize	3/4		2 6		
		1 resist shawl			1 8		
		2 com. cotton shirts	4/		8 0		
		(Paid Indians & canoe hire for going to the Walamet)					
1841.							
March	11.	Pain F. N. Blanchette's note to Jos. Rocque-burn		4	0 0		
						13	8 8

		Fort George supplies:						
		4 yds. green baize	3/4		13	4		
		2 com. cotton shirts	4/		8	0		
		30 ch. ammunition	6		1	6		
		½ lb. twist tobacco	2		1	0		
		(Canoe hire)						
							1	3 10
Jan'y	20.	1 barrel salt salmon		1	5	0		
		¼ " " do.			6	3		
Aug.	20.	60 spikes, 7 in.			3	2		
Nov.	21.	1 barrel salt salmon		1	5	0		
		1 " " do.		1	5	0		
Dec.	28.	1 gallon molasses			6	0		
							4	10 5
							385	11 4
Oct.	3.	By 5 bush. wheat from Charles Plaute	3/		15	0		
Nov.	3.	24 " " X. L. Laderoute	3/	3	12	0		
	9.	4 " do. from H. D. Lavegcent	3/		12	0		
Oct.	21.	1 land otter			10	0		
1841.								
Feb'y	21.	9 bu. wheat from Andre Louclaim	3/	1	7	0		
		13½ " do. " Chas. Tchigte		2	0	6		
		Transfer Dr. John McLaughlin, Sen., C. T. F.		15	0	0		
		Amount carried forward		23	16	6	385	11 4
1157								
		Cont. & am't br't forward		23	16	6	385	11 4
		By 349½ bushels wheat	3/	52	8	6		
				76	5	0		
		Less 8 bushels wheat, balance of loan acc't	3/	1	4	0		
							75	1 0
							310	10 4
		Less credit at Colville, 1839					1	11 0
							318	19 4
		Recapitulation of foregoing acc'ts:						
		Sale shop supplies out, 1840		446	12	6		
		Less credots		92	19	0		
							353	13 6
		Nesqually supplies		2	10	4		
		Edmonton, do. in 1838		4	2	5		
		Fort Vanco. Indian shop, 1839			3	8		
		Thompson river, 1839		11	5	0		
		lb freight from England & Columbia		3	12	1		
		lb " " " p'r Tw'd, ger.		1	15	0	55	18 1
		Fort Vanc. Indian shop credits	75 1 0				366	8 5
		Less supplies from do.	19 2 11					
							366	8 5
			55 18 1				55	18 1
							310	10 4
		Deduct credit at Colville					1	11 0
		Dr.					308	19 4
		E. E.—Add supplies, 1841					33	8 5
		Fort Vancouver, 16th March, 1841.					342	7 9
		£526.						

1158

Catholic Mission. Dr.

1840.					
Dec.	4.	P. Mr. Blanchett:			
		To iron*d* for an ox yoke, 9 lbs. 1/		9	0
		2 large square-head axes 5/8		11	4
1841.					
Jan'y	7.	½ w. cotton wick 3/3		1	8
		6 com. striped colt shirts 2/11		17	6
		6 large square-head axes 5/8	1	14	0
		3 bus. common salt 5/		15	0
		½ " timothy seed 5/		2	6
		1 w. wh. stitching thread, 90		6	6
		1 tin kettle, # 1 5/9		5	9
		6 # ware cups & saucers 1/6		9	0
		4 tin boat pans 1/3		5	0
		4 W. Canada roll tobacco 1/11		7	8
		12 pipes 1		1	0
		12 gun-flints			3
	15.	1 ring bolt, 2 staples, weg. 9¾ lbs., 4 hooks 1/		9	9
Feb'y	3.	Paid Mr. Blanchett's note, dated 14 May, 1840, favor of I. Larocque, p. $2		10	0
	6.	Paid do. dated 29th Oct. 1840, favor Mrs. Lebleane	1	0	0
		Paid do. dated 14 Nove., 1840, favor of Jos. Laroeque, *K L7*	1	15	0
	25.	Paid do. dated 21 Jan'y, 1841, favor Jos. Rocqueburn	12	11	8
Mar.	1.	Transfer 6 Simon Plomondon p. M-. Blanchett's note favor of Jos. Larocque, dated 21 Jan., 1840	2	8	0
		Am't carried forward	25	0	7

1159

1841.		Brought forward	25	0	7		
Mar.	16.	To paid Mr. Blanchet's order favor of Aug. Rochon, dated 11 inst., pr.	1	0	0		
		Total pr. Mr. Blanchet				26	0 7
Jan'y	27.	To 1 p'r hinges, 2 Ct. 6-in. spike nails, wg. 35, 1 staple 1/	1	15	0		
		1 tin lanthorn 3/5		3	5		
Feb'y	19.	Repairing 2 l'ge sqr.-head axes 3/		6	0		
		1 cat-head for plough rep. 4/		4	0		
		2 lengths stove-pipes, 1 elbow, w'gt 13½ lbs. 1/		13	6		
	22.	4 yds. com. blue strouds 4/11		19	8		
		4 men's com. cotton shirts 2/11		11	8		
		6 yds. blue duffle 7/	2	2	0		
		1 flat bast'd file 7 ins. 6			6		
		2 hand-saw do. 5			10		
		1 cross-cut do. 8			8		
		2 bottles blacking 1/6		3	0		
		1 box wafers, 1 oz. 1/		1	0		
		8 lbs. can roll tobacco 1/11		15	4		
		2 tin porrongers 9		1	6		
	25.	80 lbs. crash sugar 8	2	13	4		
		1 key 8 grs. 5/8		5	8		
Mar.	9.	28 lbs. large ox chain 6		14	0		
	10.	1 bolt, 2 hooks for ox chains, 11¼ lbs. 1/		11	9		
		Carried forward	12	2	10	26	0 7

1160

1841.		Brought forward	12	2	10	26	0 7
Mar.	13.	To 1 quire fine cartridge paper 2/6		2	6		
		2 house bells 1/2		2	4		
		Total P. Mr. Demeres				12	7 8

1841.		P. Aug. Rochen :						
Jan'y	14.	To 1 paper cased look'g-glass	3			3		
		1 p'r corduroy trowsers	9/11		9	11		
		1 man's fine striped cott. shirt	4/3		4	3		
	18.	1 bonnet with peak	3/			3		
	20.	2 yds. bombazette	2/11		5	10		
		3 " hair ribbon	4		1	0		
		1 narrow scarlet belt	1/8		1	8		
		Tital, P. A. Rochon					1	5 11
		P'r Paul Guillean :						
Feb'y	18.	To 1 hand-saw	6/1		6	1		
		1 tin kettle #1	5/9		5	9		
		12 milk turreens	2/10	1	14	0		
		1 milk strainer	2/		2	0		
		1 plain blanket, 3 pts. B. B.	11/6		11	6		
		8 lbs. can roll tobacco	1/11		15	4		
		Carried forward		3	14	8	39	14 2
1161								
1841.		Brought forward		3	14	8		
Feb'y	18.	To 6 doz. pipes	1			6		
		1 keg 8 gros.	5/8		5	8		
		4 lbs. cocoa	9		3	0		
		3 men's com. cott. striped shirts	2/11		8	9		
		1 plain blanket, 1½ pt. B. B.	5/		5	0		
		40 lbs. crushed sugar	8	1	6	8		
		½ lb. stitching thread, #90	6/6			9		
	22.	1 com. Indian gun	33/9	1	13	9		
		1 lb. T. P. F. gunpowder	1/1		1	1		
		3 " shot	6		1	6		
		1 " ball shot	6			6		
Mar.	9.	1 single cod line, 24 th'ds	4/5		4	5		
		Total p'r V. Guilbean					8	6 3
		Total dr.					48	5 0
		Less the following credits :						
Feb'y	23.	By transfer Dr. Louis Vandalleas			15	0		
		By do. " Jean Bte. Ouire		1	0	0		
		By do. " L. Latom dit Ballard		1	0	0		
		By do. " J. Rivand dit Hand			10	0		
		By do. " Jas. Pin		1	0	0		
	15.	By do. " Pouis Opin			10	0		
		By do. " X. Lagun dit Laderoute		1	10	0		
		By do. " Amable Arguaette		1	16	0		
		By do. " Joseph Carnoquer			10	0		
		By do. " Andre Lamtain		1	1	0		
		By do. " Jpseph Deslands			15	0		
		By do. " Michel Laporte		1	4	0		
		By do. " Oliver Bouchend			15	0		
							13	1 0
		Carried forward					34	19 5
1162		*Catholic Mission Cont'd.*						
1841.		Brought forward					34	19 5
Mar.	16.	By the following furs, w'g't :						
		1 large beaver			11	0		
		2 " land otters	10/	1	0	0		
							1	11 0
		Total dr.					33	8 5

E. E. F. Vancouver, 16th March, 1841.

(Endorsed:) This paper, referred to in inter-og. No. 7 (cross-inter.), was -hown to Mr. McKinley and the letters, words, and figures "E. E., Fort Vancouver, 16 March, 1841," identified as the handwriting of Mr. D. McTavish.
April 25, 1860.

J. TILTON, *S. G. W. T.*

Compter Deperis, Mars, 1840, a Mars, 1841, 342.7.9.

Supplies to Catholic Mission from Fort Vancouver Sale Shop, Outfit, 1841, *up to* 16 *March*, 1841. (1840 to 1842.)

1163 (1839 to 1840. Contains 25 pages.)

Accounts at Vancouver	446	12	6
Less credit by servants	92	19	0
Balance due	353	13	6
At Nesqually mission	12	15	4
Total	366	8	5
Vancouver Indian shop	55	18	1
Total chen.	422	6	6
Per Mr. Blanchett	48	19	5
Demin Sm.	471	6	11
Less credit serv't	13	1	0
Balance due	468	5	11

True balance, 342.7.9. (48.) The end of vol. 12.

1164 CATHOLIC BISHOP OF NESQUALLY *vs.* UNITED STATES *et al.* } Referee's Report, Vol. 13.

Defense.

Interior Department record, Exhibits 49 to 52, both inclusive.

Filed November 12th, 1888.

A. REEVES AYRES, *Clerk*,
By W. H. JOHNSON, *Deputy*.

1165 Examined.

DEPARTMENT OF THE INTERIOR, D. T.
GENERAL LAND OFFICE; W. D. S.
WASHINGTON, D. C., *March* —, 1887.

I, S. M. Stockslager, Commissioner of the General Land Office, do hereby certify that the annexed copy of a document in the matter of the St. James mission and others, claimants to certain lands at Vancouver, Washington Territory, transmitted to this office by the surveyor general of said Territory, with his letter of April 29, 1863, pursuant to telegraphic instructions given him by this office April 13, 1863, is a true and literal exemplification of said document as the original thereof appears on file in this office.

In testimony whereof I have hereunto subscribed my name and caused the seal of this office to be affixed, at the city of Washington, on the day and year above written.

[SEAL.]

S. M. STOCKSLAGER,
Commissioner of the General Land Office.

1166 G. 19262.

SURVEYOR GENERAL'S OFFICE,
OLYMPIA, W. T., *April 29th*, 1863.

I do hereby certify that the within and examined papers, are true, complete and full copies of all the original papers, depositions, arguments, maps, sketches &c., produced on the hearing of the cases of claimants to the public lands in said Territory of Washington, at, or near Vancouver, as they are on file in this office, that they have been carefully examined, and compared with said originals, and that they include all the testimony produced in said hearing as appears by the papers on file in this office.

ANSON G. HENRY,
Sur. Gen'l, W. T.

(Endorsed:) Anson G. Henry, sur. gen'l, W. T.

JOHN T. LOVELACE, being duly sworn in behalf of the widow and heirs of A. M. Short, says in reply to—

Int'y 1. State what you know in regard to the boundaries of Short's claim.

Ans. In the spring of 1850 Mr. Short got a surveyor from Oregon. He commenced on the S. W. corner of his claim and run from there up the river to his S. E. corner, on the bank, to a cotton-wood tree, which is still his boundary, and is now standing; from there we run *out* a little way beyond the old road—perhaps half a mile north—and then he began to chain off the S. E. part into
1167 town lots. The northeast corner I have never seen; the others I have seen and know them perfectly.

Int. 2. When did he begin to reside on and cultivate his claim?

Ans. I found him on it when I first came here, 1st Dec., 1849.

Int. 3. Did he continue here, and how long?

Ans. He continued here till his death, in the spring of 1853. His family have been here since.

Cross-examined by Mr. FARMER:

Int. 1. Where did you reside?

Ans. In Clarke county, six or seven miles below here; have lived there two years last Feb'y; have lived most of the time on Vancouver; was in Cal'a in 1851.

Int. 2. Do you know where the N. W. corner of the Short claim is, and when did you first know it?

Ans. I knew it in March, 1850; I was at it then.

Int. 3. What is its distance from the S. W. corner?

Ans. It is three-quarters of a mile, at least; that is what Short claims to have.

Int. 4. You say you think you know about where Short's N. E. corner is. What is its distance from the S. E. corner?

Ans. I can't say exactly; I think not quite a mile, and that it is over three-quarters of a mile.

Int. 5. Did Short ever show you his corners?

Ans. He showed me three of them.

Int. 6. Did he tell you where his other corner was?

Ans. He told me about where it was.

Int. 7. State the name of the surveyor who laid off a part
1168 of the claim in lots and blocks, as referred to in your direct examination.

Ans. His name is Israel Mitchell.

Int. 8. Do you know of any other person or persons having claimed the land or a part thereof?

Ans. I know of a man who lived a short distance from here (down the river) who pretended to have a claim. He had got it through a man by the name of Williamson, and was to have a portion of the easterly part of the claim, along the river and back, for keeping squatters off the balance of the claim. His name was Kellogg.

Int. 9. Did Kellogg live on the land?

Ans. Yes, sir; he lived in a house on the bank of the river below here.

Int. 10. Was Kellogg living on the land when you first came to Vancouver?

— Yes, sir, and remained until March, 1850, and then moved to Linton.

Int. 11. Do you know of any other claimants?

Ans. I do not. Finlay and family lived just below Kellogg's, near the river.

Int. 12. Do you know whether Kellogg sold his claim to any one?

Ans. I understood he sold or leased to a man by the name of Gardner.

Int. 13. What became of Gardner?

Ans. Well, sir, he was shot by Short in 1850, on the 6th day of April.

Int. 14. Did Short from the time you knew him to his death ever reside upon the easterly half part of the claim?

1169 Ans. No, sir; he never lived upon it.

(Signed) J. T. LOVELACE.

(Endorsed:) (27.) Jno. T. Lovelace on part of Short. No date.

Next in order is deposition of Joseph Petrain. Is found in vol. 4, beginning page 1.

Examined.

DEPARTMENT OF THE INTERIOR, D. T.
GENERAL LAND OFFICE, W. D. S.
WASHINGTON, D. C., *March* —, 1888.

I, S. M. Stockslager, Commissioner of the General Land Office, do hereby certify that the annexed copy is a true and literal exemplification of papers and documents on file in this office, in the matter of the St. James mission and others, claimants to land at Vancouver, Washington Territory, as the same appears in the record of said claims.

In testimony whereof I have hereunto subscribed my name, and caused the seal of this office to be affixed, at the city of Washington, on the day and year above written.

[SEAL.] S. M. STOCKSLAGER,
Commissioner of the General Land Office.

1170 Next in order is a letter addressed to Major Gen'l H. S. Jesup, qr. M. gen'l U. S. A., Washington, D. C., and signed Rufus Ingalls, capt., A. Q. M., date- January 15th, 1859, and is found in vol. 12, place 38.

Next in order is map of the Government reserve and city of Vancouver, etc. No endorsement.

(Here follows map marked p. 1170 *a*.)

Next is letter addressed to Hon. John B. Preston, surveyor gen'l of Oregon, Oregon City, and signed Peter Skeen Ogden, date- May 23rd, 1853, and is found in vol. 3, page —.

(Copy.)

WAR DEPARTMENT, WASHINGTON, *Oct. 29th*, 1853.

SIR: Your letter of the 30th of March was duly received, urging the confirmation of a reservation of a tract of land four miles square at Fort Vancouver, O. T., made by order of Col. Loring, on the 31st. October, 1850.

Since your original recommendations upon this subject were made, an act has been passed limiting the quantity of land subject to reservation for fortifications to 640 acres. See act of Feb'y 14th. 1853, sec. 6. 10, Statutes 159.

You will therefore cause a tract to be surveyed embracing
1171 only that quantity of land for the use of the military post.

The boundaries of the reserve should be plainly designated by land marks and on the plat of the survey should be accurately stated so that the same may be laid down on the plats of the General Land Office.

Should it be necessary to include any improvements, of settlers in the reservation you will cause a special report to be made showing the extent, condition and probable value.

The original reservation of Col. Loring embraced some private "donation claims," and remonstrances against its confirmation were on that and other grounds addressed to this department.

Before proceeding in the matter, it was deemed proper to obtain the opinion of the Attorney General upon the objections presented, and I enclose a copy of it for your information.

(Signed) JEFFERSON DAVIS,
Secr'y of War.

General E. A. Hitchcock, com'd'g Pac. division, San Francisco, Cala.

(Endorsed:) (Copy) "C." War Department, Washington, Oct. 29th, 1853. Jeff'n Davis, Sec'y of War, ordering Gen'l Hitchcock to establish a military reserve at Fort Vancouver.

1172 Copy.

HEADQ'RS DEPARTMENT OF THE PACIFIC,
SAN FRANCISCO, CALA., *Dec. 7th*, 1853.

SIR:—By direction of the commanding general I enclose herewith a copy of a letter from the Hon. Secretary of War, dated Oct. 29th, 1853, in relation to the military reserve at Fort Vancouver.

The general desires you to cause the reserve to be laid off in accordance with the provisions of this letter and to furnish a plat and description of the boundaries in which plat the boundaries shall be distinctly marked.

Inasmuch as in Col. Loring's reserve the flag-staff was taken as a starting point from which the several lines were run, the general suggests that the same point may be assumed by you. You will please furnish an estimate of the value of any improvements that may have been made within the tract laid off by you.

(Signed) E. D. TOWNSEND,
Asst. Adjt. Genl.

Lt. Col. B. L. E. Bonneville, 4th inft'y., Fort Vancouver, W. T.

(Endorsed:) "D." H'dq'rs dept. of Pacific, San Francisco, Cal., Dec. 7, '53. Gen'l Hitchock, com'd'g dep't, ordering Col. Bonneville to establish a military reserve at Vancouver.

1173 (Copy.)

HEADQUARTERS,
FORT VANCOUVER, W. T., *January 17th*, 1854.

Orders No. 1.

In order to carry out instructions received from the War Department, dated Oct. 29th, '53, and from the headquarters, department of the Pacific, dated Decem. 7th, 1853, Surgeon B. M. Byrne, Capt. T. L. Brent, A. Q. M., and Capt. C. C. Augyr, 4th infantry, will constitute a board to assemble at this post at 10 o'clock a. m. to-day, to examine and report upon the extent, condition and probable value of all improvements contained within the limits of the present military reservation at this post of 640 acres.

By order of Lt. Col. Bonneville.

(Signed) JOHN WITHERS,
2nd Lieut. 4th Inf'y.

(Endorsed:) (Copy.) F. Fort Vancouver, W. T., January 17th, 1854. Col. Bonneville's order appointing a board of officers to repor upon improvements within the limits of military reserve.

Copy.

Proceedings of a Board of Officers Assembled at Fort Vancouver, W. T., by Virtue of the Following Order.

H'DQUARTERS,
FORT VANCOUVER. W. T., *January 17th*, 1854.

1174 Orders No. 1.

In order to carry out instructions received from the War Department dated Oct. 29th, 1853, and from the h'dquarters department of the Pacific, dated December 7th, 1853, Surgeon B. M. Byrne, Capt. T. L. Brent, A. Q. M., and Capt. C. C. Augur, 4th inf'y, will constitute a board to assemble at this post, at 10 o'clock, a. m. to-day, to examine and report upon the extent, condition and probable value of all improvements contained within the limits of the present military reservation at this post, of six hundred and forty acres.

By order of Lt. Col. Bonneville.

(Signed) JOHN WITHERS,
2nd Lt. 4th Inf'ty., Act'g Adj't.

FORT VANCOUVER, W. T., *January* 17, 1854.

The board met pursuant to the above order. Every member of the board was present.

To enable the members to possess themselves of the necessary facts and information for giving an intelligent opinion upon the different points contemplated by the order, the board adjourned to Monday, the 23rd instant.

FORT VANCOUVER, W. T., *January 23rd*, 1854.

The board met pursuant to adjournment, all the members being present.

1175 The board determined as follows respecting the extent, condition, and probable value of the improvements upon the reserve:

1st. Extent of improvements.—The board find that the military reservation as designated by the commanding officer is a portion of the land claimed by the Hudson's Bay Company, and that it includes their entire establishment at this place, and that, with the exception of those belonging to the United States, they claim all the buildings upon it as their property, and also all the improvements, of whatever character.

The board find that about one-half of this reservation has been under cultivation at various times, and that upon this portion of it there are about three miles of fence, about eighty fruit trees, about eight acres of wheat in the ground, and thirteen small houses, some of them being rented at from $8 to $20 per month, one large building rented by the United States as a hospital at $40 per month, and one large storehouse upon the river, and the Catholic church and parsonage attached. Besides these there is their trading establishment, surrounded by heavy pickets, consisting of storehouses,

shops, offices, &c., and the dwelling-houses of the officers of the company.

2nd. Condition of the improvements.—The board find, with few exceptions, all the above buildings, fenses, pickets, &c., are what would be termed old, but cannot arrive at the exact age of any of them. There are, besides, some shells of houses and portions
1176 of decayed fences which they have not thought worth considering at all.

3rd. Probable value of improvements.—The board estimates the value of the above improvements to be as follows, guiding themselves in their valuation of buildings by what many of them are rented for and for fences by the current rates for such improvements:

For pickets around trading establishment	$3,000 00
thirteen houses outside of pickets	5,200 00
the hospital buildings	1,333 00
four old sheds	1,000 00
the Catholic church	2,000 00
parsonage attached	1,000 00
court-house	1,000 00
three stables	1,000 00
storehouse on river	1,000 00
four large storehouses inside of pickets ($2,500 ea.)	10,000 00
one dwelling-house (governor's)	4,000 00
" " (Graham's)	4,000 00
three houses (offices, &c.) inside the pickets ($1,000 ea.)	3,000 00
one granary	3,000 00
one blacksmith's shop inside pickets	500 00
bake-house	1,500 00
magazine	500 00
1177	
For washing-house	500 00
one kitchin (governor's house)	1,000 00
one butcher's shop	500 00
three wells, at $250 each	750 00
eighty fruit trees, at $20 each	1,600 00
eight acres of wheat in the ground, at $15 per acre	120 00
three miles of fence, at $300 per mile	900 00
Total probable value	$47,503 00

In estimating the above to be the probable value of the property and improvements upon the reserve claimed by the Hudson's Bay Company the board have proceeded as though they were claimed by private individuals, and have not deemed it their province to inquire whether they have an advantitious value as being an integral portion of the Hudson's Bay Company's establishments in this country under the peculiar privileges and rights claimed by the company.

There being no further business before it, the board adjourned *sine die.*

(Signed) B. M. BYRNE,
Surg. U. S. A.
T. L. BRENT,
A. Q. M. U. S. A.
C. C. AUGUR,
Capt. 4th Inf.

In approving the proceedings of the board of officers I do not wish it to be understood that the buildings will answer for
1178 the military reserve. They can stand a short time only when they cease to receive the great care bestowed upon them. The buildings now occupied as hospital and storehouse will answer as they now do until others be erected more conveniently located.

(Signed) B. L. E. BONNEVILLE,
Lt. Col. 4 Inf'y, Com'd'g.

(Endorsed:) "G." Copy. Headq'rs Ft. Vancouver, Jan'y 27, 1854. Proceedings of the board of survey assessing the value of improvements within the military reserve at Fort Vancouver, W. T.

List of Papers Enclosed in the Report of Capt. Rufus Ingalls, A. Q. M., Fort Vancouver, Jan'y 15th, '59, on the Catholic Mission Claim.

A. Sketch of the place.

B. Letter of Peter Skeen Ogden protesting against the claim, Fort Vancouver, May 23, '53.

C. Letter from War Department, Washington, Oct. 29, '53, Jeff. Davis, Sec. of War, ordering Gen'l Hitchcock to establish a military reserve at Fort Vancouver.

D. Letter from h'dq'rs dep't of the Pacific, San Francisco, Cal., Decem. 7, '53, Gen'l Hitchcock, com'd'g dep't, ordering Col. Bonneville to establish a military reserve at Vancouver.

E. Col. Bonneville, order No. 77, dated Decem. 8, 1653, establishing boundaries of military reserve at Fort Vancouver.

1179 F. Col. Bonneville's order No. 1, dated Fort Vancouver, Jan'y 17, 1854, appointing board of officers to report upon improvements within limits of Fort Vancouver mil'y reserve.

G. Proceedings of board of survey assessing the value of improvements within the military reserve of Fort Vancouver, dated h'dq'rs Ft. Vancouver, Jan'y 27, '54.

(Endorsed:) List of papers enclosed in report of Captain Rufus Ingalls, A. Q. M., Fort Vancouver, Jan'y 15, '59, in relation to the Catholic mission claim.

(Endorsed:) Exhibit 50. Interior Department records. Offered by defendants and filed April 17th, 1888. W. Byron Daniels, referee.

1180 Examined.

DEPARTMENT OF THE INTERIOR, D. T.
GENERAL LAND OFFICE, W. D. S.
WASHINGTON, D. C., *March* —, 1888.

I, S. M. Stockslager, Commissioner of the General Land Office, do hereby certify that the annexed copy of notification of Esther Short, widow of Amos M. Short, and papers attached thereto, is a true and literal exemplification of said notice and papers attached thereto, as the originals thereof appear on file in this office in the matter of said Short and others, claimants to land at Vancouver, Washington Territory.

In testimony whereof, I have hereunto subscribed my name, and caused the seal of this office to be affixed, at the city of Washington, on the day and year above written.

[SEAL.] S. M. STOCKSLAGER,
Commissioner of the General Land Office.

TERRITORY OF WASHINGTON:

Notification to the Surveyor General of Oregon of Settlement on Public Land Not Yet Surveyed.

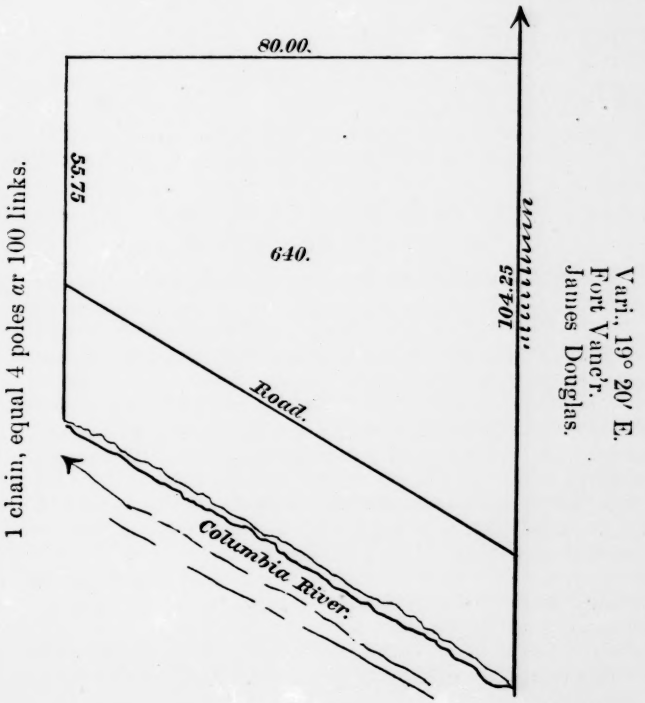
Pursuant to the act of Congress approved on the 14th day of February, 1853, entitled "An act to amend an act entitled 'An act to create the office of surveyor general of the public lands in Oregon, and to provede for the survey and make donations to settlers
1181 of the said public lands—'"

I, Esther Short, widow of Amos M. Short, now deceased, late of Clarke county, in that part of the Territory of Oregon now established as the Territory of Washington, hereby give my notice of my claim as widow and the claim of the heirs of said Amos M. Short to a donation of 640 acres of land particularly bounded and described as follows: Beginning at a Balm of Gilead tree about 10 in. in diameter on the northern bank of the Columbia river about 60 yards below the salmon-house, so called, of the Hudson Bay Company at Vancouver, thence due north 104 chains (of 4 poles each) and 25 links to a red fir tree 4 inches diameter, witness a red fir 12 inches diameter N. 51 degrees W. 14 links; thence due west 80 chains to a red fir tree 9 inches diameter, witness tree, red fir, 10 inches D. S. 45 E. 42, } thence south 35 chains 75 links to Balm
8 " N. 28 ½ W. 74; }
of Gilead tree 40 inches diameter, marked A. M. S., on the bank of said Columbia river, up-stream to the place of beginning; and I refer to the survey and plat of said land t-ereto annexed. I give this notice in behalf of myself as widow and of Curtis F. Short, aged 22 years on 17th day of October last, now in Texas; Jerusha, now married to Andrew Bolan and aged 21 on 7 August instant, now of said county; Drusilla Short, aged 19 on 15th January last; Amos Clark, aged 18 on 4th April last; Cymantha, now married
1182 to *to* Henry C. Morse and aged 16 years on 25th January last; Moxley B. Short, aged 14 on 31st October last; Alfred

D. Short, aged 11 years 4th March last; Grand H. Short, aged 7 on the 1st September last; Hester M. Short, aged 5 years on the 30th August last; Hannah E. Short, aged 2 years on the 5th September last, all of said Clarke county and being all the children and heirs-at-law of the said Amos M. Short. The said Amos M. Short departed this life on or about the nineteenth day of January, A. D. 1853, having been drowned on board the vessel called the Vandalia on a voyage from San Francisco, California, to said Columbia river.

Dated the 26th day of August, A. D. 1853.

(Signed) ESTHER SHORT.



1183 Surveyed for Mr. Amos M. Short, his claim of 640 acres of land, com'c'g at a Balm of Gilead tree, ab't 16 inches diameter, on the bank of the Columbia river, run'g due N. 104.25 chains to a red fir tree 4 in. dia.; wit's another r. fir 12 in. dia., N. 51 degrees W. 14 links (Fort Vancouver, James Douglas, E., once claimed by W. M. Card); thence due W. 80.00 ch's to a red fir tree 9 in. dia., wit's { 10 in. dia., S. 45 degreed E. 4 links, { thence due S. trees r. fir { 8 " " N. 28 ½ W. 1 link; { 55.75 ch's to a Balm of Gilead tree 40 in. dia., marked A. M. S., on the bank of the Columbia river, wit's Hawthorn tree 10 in. dia., N. 35 degrees W.

24 l'ks; thence up the banks of the Columbia river, the general course of which is here S. 31 degrees ¼ E. 93.58 ch's to the place of beginning.

(Signed) SAMUEL D. SNOWDEN.

Vancouver county, June 10th, 1848.

The above is a correction of a former survey only made by the same claimant and recorded by him August 13th, 1846.

(Signed) S. D. SNOWDEN.

10, 6, '48.

(Upon which is endorsed :)

Certificate of survey, Mr. A. M. Short's L. claim, June 10th, 1848. Recorded on pages 2 and 3, Book A of Records of Clarke County Land Claims, July 4th, 1850.

(Signed) R. H. LANDSDALE,
Clerk of Probate & Recorder.

Affidavit of Settlers on Unsurveyed Lands Claiming under the 4th Section of Act of 27th September, 1850.

1184 Esther Short, of Clark county, Washington Territory, widow of Amos M. Short, deceased, late of said Clark county, in the Territory of Washington, being first duly sworn, says that said Amos M. Short was a white settler on the public lands in that part of Oregon now established as the Territory of Washington, and that he arrived in Oregon on the last day of December, 1845, and was a resident thereof on and before the 1st day of December, 1850; that he was a native-born citizen of the United States, and that he was borne in Tioga county, Pennsylvania, in the year 1810; that he had personally resided upon and cultivated that part of the public land in that part of Oregon now established as the Territory of Washington, particularly described in the annexed notification to the surveyor general of Oregon continuously from the 8th day of March, 1848, to the 19th day of January, 1853, the time of his death; and she further says that he intermarried with Esther Clarke, this deponent, his wife, and that he was legally married to her on the twenty-second day of November, A. D. 1829, in said Tioga county, in Pennsylvania.

(Signed) ESTHER SHORT.

Subscribed and sworn to before me this 26th day of August, 1853, in the county of Clarke, in said Territory of Washington.

Witness my hand and private seal, there being no seal of said court, at the place and on the day above written.

[SEAL.] (Signed) JAMES C. STRONG,
Clerk of the U. S. District Court within and for the said County and Territory.

1185 *Proof of Commencement of Residence and Cultivation on Land Not Yet Surveyed.*

John C. Allman, of Clarke county, in the Territory of Washington, being first duly sworn, says that he is in no way interested in the tract of land claimed as a donation of Esther Short, widow, and the heirs of Amos M. Short, deceased, and particularly described in the annexed notification to the surveyor general of Oregon; that he was personally acquainted with said Amos M. Short, and knows that he has personally resided upon and cultivated said tract of land continuously from the *from the* eights day of March, 1848, to the 19th day of January, 1853, at which last date Amos M. Short, deceased, and said Esther Short has since resided upon and cultivated same tract of land to date.

(Signed) JOHN C. ALLMAN.

Subscribed and sworn to before me this 26th day of August, 1853, in the county of Clarke, in the Territory of Washington.

[SEAL.] Witness my hand and private seal, there being no official seal, at the place and on the day above written.

(Signed) JAMES C. STRONG,
Clerk of the U. S. District Court within and for the said County and Territory.

1186 Henry Allman, of Clarke county, in the Territory of Washington, being first duly sworn, says that he is in no way interested in the tract of land claimed as a donation right by Esther Short, widow, and the heirs of Amos M. Short, deceased, and particularly described in the annexed notification to the surveyor general of Oregon; that he was personally acquainted with said Amos M. Short and knows that he has personally resided upon and cultivated said tract of land continuously from the eighth day of March, 1848, to the 19th day of January, 1853, at which last date said Amos M. Short, deceased, and said Esther Short has since resided upon and cultivated said tract of land to this date.

(Signed) HENRY ALLMAN,

Subscribed and sworn to before me this 26th day of August, 1853, in the county of Clarke and Territory of Washington.

[SEAL.] Witness my hand and private seal, there being no official seal, at the place and on the day above written.

(Signed) JAMES C. STRONG,
Clerk of the U. S. District Court within and for said County and Territory.

1187 *Affidavit of Witness for a Settler Claiming Unsurveyed Lands as a Married Man.*

John C. Allman, of Clarke county, in the Territory of Washington, being first duly sworn, says that he was personally acquainted with Amos M. Short, now deceased, the person whose widow and

heirs claim a donation right to the tract of land discribed in the annexed notification to the surveyor general of Oregon, and Esther, his wife; that he has known them to live together as man and wife from the first day of December, 1847, to the 19th day of January, 1853, the time of the death of deceased, and that they are and were reputed by their neighbors as such during said period.

(Signed) JOHN C. ALLMAN.

Subscribed and sworn to before me this 26th day of August, 1853, in the county of Clarke and Territory of Washington.

[SEAL.] Witness my hand and private seal, there being no official seal, at the place and on the day above written.

(Signed) JAMES C. STRONG,
Clerk of the U. S. District Court Within and for the Said County and Territory.

And as an endorsement of all the foregoing papers is the following: No. 322. Washington Territory. Notification of settlers on unsurveyed lands, dated 26 August, 1853. Filed 4th October, 1853. Ans.)

1188 I, William M. Randall, acting for William B. Rankin, register of the Territory of Washington, with full authority under a letter of attorney executed by said Rankin, do hereby certify the foregoing papers to be true copies of the notification, proofs, &c., on file in the office of the register of the land office at Olympia, in the said Territory, having compared the same with the originals on file in this office. I further certify that, except a deed of revocation executed by Esther Short for ten acres of land, included in said notification, for the purpose of erecting a penitentiary for the Territory of Washington, dated June, 1853, and filed in this office the 24th June, 1858, they are all the papers filed by the said Esther Short in support of said donation right.

Witness my hand, at Olympia, this 2nd day of February, A. D. 1860.

WM. M. RANDALL,
Acting Register, Territory of Washington.

(Endorsed:) Notification and proof in matter of land claim of Esther Short. Notification dated Aug. 26, '53. Proves residence and cultivation from March 8, 1848, to Jan'y 19, 1853, and marriage from Dec. 1, 1847, to Jan'y 19, 1853.

1189 (Endorsed:) Exhibit 51. Interior Department records. Offered by defendants and filed April 17, 1888. W. Byron Daniels, referee.

Examined.

DEPARTMENT OF THE INTERIOR, D. T.
GENERAL LAND OFFICE, W. D. S.
WASHINGTON, D. C., *March* —, 1888.

I, S. M. Stockslager, Commissioner of the General Land Office,

do hereby certify that the annexed copy of a document entitled "Territory of Washington, county of Clark, H. C. Morse, *vs.* N. Bateman *et al.*" is a true and literal exemplification of said document, as the original thereof appears on file in this office in the record of the case of the St. James mission and others, claimants to land at Vancouver, Washington Territory.

In testimony whereof I have hereunto subscribed my name, and caused the seal of this office to be affixed, at the city of Washington, on the day and year above written.

[SEAL.] S. M. STOCKSLAGER,
Commissioner of the General Land Office.

1190 TERRITORY OF WASHINGTON, }
County of Clarke. }

Depositions to be Used Before the Register and Receiver of the Land Office in Olympia, Washington Ter.

H. C. MORSE }
vs.
N. BATEMAN *et al.* }

SEPT. 13TH—one o'clock p. m.

Parties to this action met at the office of J. D. Biles, J. P., in pursuance of notice filed, when, on motion of H. C. Morse's att'y, the taking of the depositions was continued until to-morrow morning, 10 o'clock a. m.

SEPT. 14TH, 1860.

Parties met pursuant to adjournment.

DRUZILLA BURLINGAME, being forst duly sworn, makes answer to the following interrogatories as follows, to wit:

Int. 1. State what is your name and where do you reside.

A. Druzilla Burlingame; reside in Clarke county, W. T.

No. 2. State how long you have resided in Clarke county, W. T.

A. Since the fall of 1846.

No. 3. State of you were acquainted with the late Fred. Beers, deceased, and his wife, Elizabeth, now Mrs. Bateman, and since what time.

A. Am acquainted with them since 1849—the summer thereof.

No. 4. State of you are acquainted with the boundaries of the tract of land now in dispute between H. C. Morse and Elizabeth Bateman and the heirs of Fred. Beers, deceased.

1191 A. I know where one line runs. I know where they say it is.

No. 5. Do you know where the east line of Mrs. Short'- land claim is.

A. Yes; I guess I do.

No. 6. Do you know where the west line of the military reserve is?

A. Yes.

No. 7. Are you acquainted with the tract of land between those two lines?

A. Yes.

No. 8. You will state, if you know, whether Fred. Beers, deceased, or his wife, now Elizabeth Bateman, resided upon said tract of land at any time from July, 1850, until Fred. Beers died.

A. He did not.

No. 9. State if you ever heard Fred. Beers, deceased, or his wife, now Elizabeth Bateman, make any statement in regard to their holding a claim in Clarke county elsewhere than upon a tract of land above set forth; and, if so, when said statement was made.

A. I heard them say they had a claim above here about 4 miles. I think it was in August, 1850.

No. 10. State what time in August, 1850.

A. Think it was about the mid-le of August.

No. 11. State about what time Beers and his wife first resided near the tract of land above described.

A. I guess it was in the fall or winter of 1850. I think it was in October or November.

1192 No. 12. Where did they reside when they moved down?

A. Lived in the house on the reserve, where Major Reynolds used to live.

No. 13. State, if you know, when Fred. Beers died.

A. Do not know exactly, but was in the year of 1851.

Cross-examined:

No. 1. State what month in the winter of 1846 you arrived in Vancouver.

A. Think it was in December.

No. 2. Have you resided in Vancouver continuously since?

A. Since, excepting one year before Bars came here.

No. 3. Have you resided continuously in Vancouver since your first acquaintance with Fred. Beers?

A. I was at Salem about one year while he was alive. This was in the spring of 1850. Was gone avout 3 months.

No. 4. Do you know the house now oc-upied by Mrs. Bateman; if so, is it east or west of the military reserve line?

A. Do not know.

No. 5. State where Mrs. Bateman lived when last you called upon her.

A. Lived in the little old house the other side of the saloon.

No. 6. When was that?

A. Do not know when it was.

No. 7. State the appearance of that tract of land lying between the eastern line of Mrs. Short's claim and the western line of the military reserve.

1193 A. It is a three-cornered piece in the shape of a *p*lat-iron.

No. 8. Do you know the house now oc-upied by Lloyd Brooke, in the town of Vancouver?

A. Yes.

No. 9. Is that house east or west of the M. reserve line?

A. I think it is east.

No. 10. Do you know where the old Salmon house was which was torn down in 1860?

A. I do.

No. 11. Is that east or west of the military reserve line?

A. I think it is nearer west than it is east.

No. 12. State when you first became acquainted with *with* Fred. Beers.

A. In the summer of 1849.

No. 13. Where did he reside then?

A. In the garrison.

No. 14. When did you first see him residing in Vancouver?

A. Do not remember; lived in Van. before his time was out.

No. 15. State w-ether you saw Beers in the summer in 1850 and where he resided.

A. I saw him at our old place. He said he lived on his claim and place above.

No. 16. What time in the year was the remark made?

A. Think it was August.

No. 17. Describe the house in which this conversation occur-ed and where it was.

A. About one *lime* below Vancouver.

1194 No. 18. Who were present besides yourself and Mr. & Mrs. Beerz at that conversation?

A. Father & mother and Mr. Lovelace; it was at the dinner table.

No. 19. Please repeat the whole of that conversation.

A. Do not know; cannot rep-at it.

No. 20. Do you remember any other parts of that conversation excepting that portion you have just refer-ed to?

A. Do not recollect any more.

No. 21. Please state to whom you first mentioned your first recollection of that conversation and at what time.

A. Do not know that I ever mentioned to anybody.

No. 22. Are you acquainted with Mrs. Jerusha Shockly and H. C. Morse?

A. Yes.

No. 23. State if you are a relative of the wife of Henry C. Morse, one of the parties of this suit, and what that relationship is.

A. I am a sister.

No. 24. State w-ether your feelings are those of friendship to the Bateman family.

A. Yes.

No. 25. Please state to whom you first mentioned the fact of your being acquainted with Fred. Beers and the declaration that Beers made regarding to his holding that claim up the river.

A. Do not remember w-ether I talked to anybody about it.

1195 No. 26. Did Beers ever reside in any other house in the summer of 1850, previous to his moving into what you call the Reynolds house?

A. Yes; he did; he called his.

No. 9. State where that claim was situated.

A. About 4 or 5 miles on the river above Vancouver; do not know the exact distance.

Cross-examination:

No. 1. State w-ether you are acquainted with the wife of H. C. Morse, pl'ff in this suit, and Mrs. Burlingame.

1199 A. I am.

No. 2. State what relationship, if any, exist between yourself — those parties.

A. They are my sisters.

No. 3. At what time did you come to what is now known as the town of Vancouver?

A. First time I came here in 1845.

No. 4. Did Mrs. Burlingame come here for the first time with you then?

A. No; she was not with me the first time.

No. 5. State w-ether you resided in Vancouver or vicinity continuously since 1845; if absent, state what years you were absent.

A. Did not reside here until 1847; have not been absent since that time a whole year at a time.

No. 6. State what was the oc-upation of H. C. Morse when you first became acquainted with him.

(Objected to.)

A. He was a soldier.

No. 7. Did you ever converse with Henry C. Morse at or about the time he first took up his residence at the house or place you refer-ed to in your direct examination?

A. I expect I have.

No. 8. State the substance of those conversations with reference to the land now claimed by him.

A. Told me he was going to take the place—the land.

1200 No. 9. Did he ever at that time designate to you the boundaries of the land then claimed by him?

A. He told me; did not show me; told me that he was going to take the piece of land between the reserve and mother's claim.

No. 10. Please state what has been the extent of H. C. Morse's cultivation from the time he first moved onto the land up to the present time.

A. Has had a small garden every year.

No. 11. Will you swear positively?

A. I will.

No. 12. Did Morse ever tell you at or about the time he moved on that land reasons that induced him to do it?

A. Said he wanted a claim; that he thought it would be valuable.

No. 13. State, if you know, when the lines of the present military reserve were run.

A. Do not recollect the exact time.

No. 14. Did Morse ever tell you that the running of those lines had induced him to locate upon that ground above refer-ed to?

A. I do not think he ever told me so.

No. 15. Do you know of your own knowledge or did H. C. Morse ever tell you of the claim of Mrs. Bateman to the same piece of ground; if so, what did he say in that connection?

(Objected to.)

A. He never told me so. Mrs. Bateman claimed it after
1201 Morse went on there was the first I knew about it.

No. 16. Describe the western line of the military reserve—where it commences and where it ends.

A. Commences on the bank of the river at a stake, runs in the woods to a stake, I should judge about one mile—maybe over.

No. 17. How far east or west of that line did Beere reside in the early part of the summer of 1850?

A. Think it was somewher- between one and two hundred yards east.

No. 18. Have you ever heard Morse say that the running of the military reserve lines induced him to take up his residence on that land now claimed by him?

A. Do not think I ever did.

No. 19. Have you been intimate and in frequent conversation with Morse in reference to the claim?

A. Have had conversation with him a time or two about it.

No. 20. At what time did Beers first take up his residence on this claim now in dispute?

A. Do not know exactly; built a small shanty and kept a small grocery in it in 1854. Beers never did reside upon — ; his widow built the shanty.

No. 21. Where was Beers residing in the early part of the summer of 1850?

A. Was in a little house where the military reserve now is.

Direct examination resumed:

No. 1. State, if you know, who was the first settler on the
1202 tract of land embraced between the western line of the military reserve and the eastern line of Mrs. Short's land claim.

A. Morse was.

No. 2. State if you ever heard of any person claiming that tract of land as a donation claim previous to Morse's doing so?

A. I never did.

A. C. SHORT.

JOHN T. LOVELACE, being first sworn, makes answers to the following interrogatories as follows, to wit:

No. 1. What is your name and where do you reside?

A. J. T. Lovelace; reside about 7 miles below Vancouver, W. T.

No. 2. State of you have resided near Vancouver, W. T.; and, if so, how long?

A. Have lived a good portion of my time in Vancouver; came to Vancouver in 1849, in the spring of 1851 went to Cal., in 1852 came back again. Have resided here and near here off and on since.

No. 3. State if you are acquainted with H. C. Morse, pl'ff in this action; if so, how long?

A. Have been acquainted with him since 1849?

— State if you are acquainted with the tract of land embraced between the eastern line of Mrs. Short's land claim and the western line of the military reserve.

A. I am.

No. 5. State, if you know, who was the first set-ler upon said tract of land.

A. The first that I knew anything about was H. C. Morse.

1203 No. 6. State, if you know, when H. C. Morse first settled upon said tract of land.

A. Think it was the 28th day of Dec., 1853; not certain w-ether it was Nov. or Dec., 1853; think it was Dec.

No. 7. State, if you know, w-ether his settlement upon said tract of land commenced before or after the present military reserve line was run.

A. It was after.

No. 8. State, if you know, w-ether said Morse has resided upon and cultivated any portion of said tract of land continuously from that time up to the present.

A. He has ever since I knew him.

No. 9. State if you were acquainted with Fred. Beers, deceased. *I*

A. I was.

State, if you know, w-ether said Beers ever claimed said tract of land or any portion thereof as a donation claim.

A. Not to my knowledge.

State if you know of any person ever*y* having *having* claimed said tract of land or any portion thereof prior to the time of Hency C. Morse settling upon it.

A. No one, to my knowledge.

State if you have been acquainted with Mrs. Elizabeth Bateman, late widow of F. Beers, deceased, since the death of her husband up to this time; if so, w-ether you ever knew her to make any claim to said tract of land or any portion thereof, either in her own right or that of her husband, before H. C. Morse settled upon said tract of land.

1204 A. Have been acquainted with her; have never known her to make any claim to the said tract prior to H. C. Morse.

Cross-exam'd:

State what times you have been absent since you arrived, in 1849.

A. I left here in 1851; think it was April; returned here on the 3rd day of June, 1852. Between these time was here, not to stay over one day and night; was at the Cascade a while in the fall of

1850. In the spring of 1853 went away from Vancouver; returned again about the last of Oct., 1853.

State where you were from Oct. to the latter part of Dec., 1853.

A. Was here in Vancouver.

State your means of knowing the location and bounds of that strip of land lying between Mrs. Short'- claim and the western line of the military reserve.

A. I help- *survey* Mr. Short survey his line and seen the military surveying their line.

Describe the western line of the military reserve, where it commences and where it ends.

A. Commences at a U. S. post on the bank of the river near a cotton-wood tree, running northeast course about one mile.

When was that line ran and who by?

A. Was in 1853; ran by Col. Bonneville, I think.

Do you know anything of a dispute that oc-ur-ed at that time between Col. Bonneyville and present Mrs. Bateman with
1205 reference to the running of that line?

(Objected to as leading.)

A. I do not of my knowledge. It was roumered around that there was some dispute.

(Answer objected to.)

Was you intimate with H. C. Morse in 1853, on or about Dec. or Nov.? And state how intimate.

A. I was intimate with him. I would spend an hour or two with him at his house of evenings.

Is H. C. Morse a farmer?

A. No; I think not.

Did Morse ever converse with you in refference to the land now claimed by him?

A. Yes.

Did H. C. Morse ever tell you that the running of the reserve line had any reference to his moving on that land?

A. I think he did. It was not known that there was any vacant land until after the reserve lines run. Morse stated that he inte-d to take the vacant land between and not go further than the lines of the reserve and Mrs. Short's.

Did Morse ever till you of any claim set up at that time of the Beer family?

A. I cannot say.

State positively w-ether you did not know of a claim set up by the Beer family or by Bateman previous to the running of the line of the military reserve.

(Objected to.)

1206 A. I never knew of any claim previous.

State the extent of ground claimed by H. C. Morse at the time when he first moved on the claim refer-ed to.

A. Do not know.

Did H. C. Morse tell you at that time for what purpose he moved there and w-ether he took up a donation claim?

A. Yes; he did. He told me that his purpose was to take a donation claim; think it was a day or two before he moved onto it.

State the extent of Morse's cultivation.

A. I suppose about ½ an acre.

Has he cultivated continuously four years from the time he first took his residence there?

A. He cultivated the ½ acre about two years; then built on the other side of the road. He fenced and cultivated a piece there. Then he cultivated a piece of ground to where he now lives since that time.

State what claims at that time surrounded H. C. Morse.

A. The military reserve on the east; on the north, A. J. Bolan; on the west *west*, Mrs. Short.

State the extent of vacant land lying between those claims at the time Morse moved on them.

A. Was not surveyed; do not know exactly. My opinios is there was 30 to 40 acres. I formes this opinion from walking across it and over it.

Was you present when H. C. Morse moved on the land now in dispute? If not present, state where you were.

1207 A. I was not present when he moved on; was there on the ev-ing of the day he moved; rec'd a note from Morse to take supper with him that eve-ng and did so.

State what became of that note.

A. Am not certain w-ether it was a note sent me or w-ether it was a verbal message.

Were you in the habit at that time of *feceiving* notes from your acquaintance- in the town of Vancouver?

A. I was in the habit of receiving notes and verbal messages from my friends in Vancouver.

How long before the receiving of that note or message had you last seen H. C. Morse?

A. Might have seen him twenty minutes before.

Do you recollect the exact date of that message?

—. It was on the 28th of Dec., 1853.

Did you make any memorandum of the exact date at that time?

A. Nothing more than changing my mind particularly with the affair.

State what conversation occur-ed between yourself and Morse the night you received the note or message with refere-ce to the land claimed by him.

A. That he had taken a donation claim between Mrs. Short and the Gov't reserve; wanted me to take notice of the date so as I could act as a witness hereafter.

State the extent of you- acquaintance with Beers.

A. Was intimately acquainted with him.

J. T. LOVALACE.

1208 MARIA J. FIELDS, being first duly sworn to make tru- answers to the following interrogatories, makes answers as follows, to wit:

No. 1. State what is your name and where do you reside.

A. My name is Maria J. Fields; reside in Vancouver, W. T.

No. 2. State how long you have resided at or near Vancouver, W. T.

A. It will be 10 years on the 24th day of Oct., 1860.

No. 3. State if you are acquainted with H. C. Morse, pl'ff in this action.

A. I am.

No. 4. State if you were acquainted with F. Beers (dec'd) and Elizabeth Bateman, late the wife of Fred. Beers; if so, how — have you known them?

A. I was slightly — with Beers, and with Mrs. Beers since 1851.

No. 5. State if you are acquainted with a man by the name of Donegan; if so, how long.

A. I am acquainted with him; think since the winter of 1851.

No. 6. State if you know at or about what time Fred. Beers died and where he died.

A. Died some time in March, 1852, in Vancouver.

No. 7. State if you know w-ether Dougan ever bought a claim from Fred. Beers (dec'd); if so, about how long it was before Fred. Beers died.

(Objected to.)

A. I heard him say he bought it the same spring he, Beers, died; do not recollect w-ether it was before or after he died.

1209 No. 8. State, if you recollect, what time Donegan returned from Astoria.

A. Think it was in the winter of 1851.

No. 9. State, if you know, where the claim was situated that Dongan bought of Beers.

(Objected to.)

A. Heard him say it was above Nyes—between Nyes and Leesers.

MARIA J. FIELDS.

HENRY C. MORSE, Pl'ff, *vs.* ELIZABETH BATEMAN and the Heirs of Frederick Beers, Dec'd.	Contest of Right to a Donation Land Claim in Vancouver, Clarke County, Washington Territory.

The defendents will take notice that the plaintiff will take the depositions of Mrs. Burlingame, A. C. Short, Mrs. Fielss, Loyd Brooks, Jehue Snissler, Mr. Bennet, and John Corleas, to be read in evidence on the trial of the above-entitled cause before the register and receiver of the land office for Washington Territory, at Olympia, in said Territory; said depositions will be taken at the office of and before John D. Biles, notary public, at Vancouver,

Clarke county, Washington Territory, on Thursday, the 13th day of September, A. D. 1860, beginn-g at the hour of 1 o'clock
1210 p. m. and continuing thereafter from day to day until concluded.

AND. J. LAWRENCE,
Att'y for Plaintiff.

(Endorsed.)

We hereby accept a true copy of the within notice and waive all further service.

PAGE, ANDERSON AND NUGENT,
Att'ys for Defendants.

TERRITORY OF WASHINGTON, } ss:
County of Clarke, }

I, John D. Biles, justice of the peace in and for said county, do hereby certify the above and foregoing depositions were taken before me and reduced to writing by myself and signed in my presense by the above and foregoing named Druzilla Burlingame, Lloyd Brooke, A. C. Short, John Lovelace, and Maria J. Field at Vancouver, Clarke county, W. T., commencing on the 13th day of September, A. D. 1860, at the hour of one p. m. and continuing from day to day until completed, in pursuance of notice hereto annexed; that the above-named Druzilla Burlingame, Lloyd Brooke, A. C. Short, John Lovelace, and Maria J. Field, before examination, *was* sworn to testify the truth, the whole truth, and nothing but the truth in making answers to the interrogatories, and that each deposition was carefully
1211 read to each witness respectively and then subscribed by them in my presense.

JOHN D. BILES,
Justice of the Peace in and for said County.

Vancouver, W. T., Sept. 17th, 1860.

TERRITORY OF WASHINGTON, } ss:
County of Pierce, }

I, William Kelly, clerk of the district court in and for the 1st judicial district, in Washington Territory, hereby certify that John D. Biles, whose genuine signature is affixed to the certificate of depositions, is and was at the date of signing the same a justice of the peace in and for said county, duly authorized by law to take depositions, and that full faith and credit are due all his official acts as such.

In witness whereof I have hereunto set my *have* and affixed the seal of said court, at my office, in Vancouver, W. T., Nov. 24, 1860.

WM. KELLY,
Clerk of said Court.

(Endorsed:) Filed January 15th, 1861. Isaac W. Smith, register.

1212 (Endorsed:) Exhibit 52. Interior Department record. Offered by defendants and filed April 17th, 1888. W. Byron Daniels, referee.

The end of vol. 13.

1213 CATHOLIC BISHOP OF NESQUALLY
vs.
UNITED STATES *et al.*

Referee's Report, Vol. 14.

Defense.

Interior Department record, Exhibits 53 to 72, both inclusive.
Filed November 12th, 1888.

A. REEVES AYRES, *Clerk*,
By W. H. JOHNSON, *Deputy*.

1214 Examined.

DEPARTMENT OF THE INTERIOR, D. T.
GENERAL LAND OFFICE, W. D. S.
WASHINGTON, D. C., *March* —, 1888.

I, S. M. Stockslager, Commissioner of the General Land Office, do hereby certify that the annexed copy of notification No. 1281, of H. C. Morse, and of papers attached thereto, is a true and literal exemplification of said notice, and the papers attached thereto, as the originals thereof appear on file in this office in the record of the case of the St. James mission and others, claimants to land at Vancouver, Washington Territory.

In testimony whereof, I have hereunto subscribed my name and caused the seal of this office to be affixed, at the city of Washington on the day and year above written.

[SEAL.] S. M. STOCKSLAGER,
Commissioner of the General Land Office.

No. 1281. Rec'd July 19, 1855.

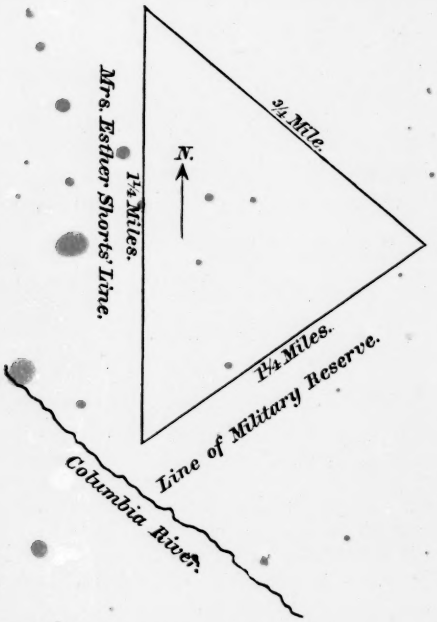
Notification to the Register and Receiver of Washington Territory of Settlement on Public Land in Washington Territory Unsurveyed.

1215 Pursuant to the act of Congress approved on the 14th day of February, 1853, entitled "An act to amend an act entitled 'An act to create the office of surveyor general of public lands in Oregon and to provide for the survey and make donations to the settlers of public lands,'" I, Henry C. Morse, of Clarke county, in the Territory of Washington, hereby give notice of my claim to a donation of 320 acres of land, particularly bounded and described as follows:

Beginning at the western corner of the military reserve on the bank of the Columbia river, running due north one mile and a quarter to the northeast corner of Mrs. Esther Short's land claim,

thence three-quarters of a mile in an easterly direction to the military reserve, thence one mile and a quarter to the place of beginning.

H. C. MORSE.



(See letter July 20, '55. Disallowed, the shape being objectionable.)

1216 *Affidavit of Settlers on Surveyed Lands Claiming under the Section of Act of 27th September*, 1850.

Henry C. Morse, of Clarke county, in the Territory of Washington, being first duly sworn, says that he is a white settler on the public lands in Washington Territory, and that he arrived in Oregon on the 15th day of May, A. D. 1849, and was a resident thereof on and before the 1st day of December, 1850; that he is a native-born citizen of the U. S. of America and is a married man; has one child, names Esther Amelia Morse, aged nine months, and that he was born in city of New York, in the State of New York, in the year 1832; that he has personally resided upon and cultivated that part of the public land in Vancouver, Clarke county, W. T., as particularly described in the annexed notification to the register and receiver of Washington continuously from the 18th day of January, 1854, to the 28th day of March, 1855; and he further says that he is intermarried with Samantha Morse, his wife, and that he was

legally married to her on the 17th day of February, 1853, in Washington county, in Oregon Territory.

H. C. MORSE.

WASHINGTON TERRITORY, } ss:
Clarke County, }

On this 10th day of July, A. D. 1855, before me, John D.
1217 Biles, deputy clerk U. S. D. court in and for Clarke county, duly commissioned and sworn, residing in Vancouver, personally appeared Henry C. Morse, of Clarke county, W. T., unto me known as the subscriber to the foregoing affidavit, and made oath thereto in due form of law.

In testimony whereof I have hereunto set my hand and official seal.

[SEAL.]

J. D. BILES,
Deputy Clerk of U. S. District Court.

Proof of Commencement of Residence and Cultivation on Unsurveyed Land.

Andrew J. Bolan, of Clarke county, in the Territory of Washington, being first duly sworn, says that he is in no way interested in the tract or tracts of land claimed as a donation by Henry C. Morse and particularly described in the annexed notification to the register and receiver of Washington; that he is personally acquainted with said Henry C. Morse and knows that he has personally resided upon and cultivated said tract of land continuously from the 18th day of January, 1854, to the 28th day of March, 1855.

A. J. BOLAN.

WASHINGTON TERRITORY, } ss:
Clarke County, }

On this 10th day of July, A. D. 1855, before me, John D.
1218 Biles, deputy clerk of U. S. D. court in and for Clarke county, duly commissioned and sworn, residing in Vancouver, personally appeared Andrew J. Bolan, of Clarke county, W. T., unto me known as the subscriber to the foregoing affidavit, and made oath thereto in due form of law.

In testimony whereof I have hereunto set my hand and official seal.

[SEAL.]

J. D. BILES,
Deputy Clerk U. S. D. Court.

Amos Clark Short, of Clarke county, in the Territory of Washington, being first duly sworn, says that he is in no way interested in the tract or tracts of land claimed as a donation right by Henry C. Morse, and particularly described in the annexed notification to the register and receiver of Washington; that he is personally acquainted with said Henry C. Morse and knows that he has personally resided upon and cultivated said tract of land continuously

from the 18th day of January, 1854, to the 28th day of March, 1855.

A. C. SHORT.

WASHINGTON TERRITORY, } ss:
Clarke County, }

On this 10th day of July, A. D. 1855, before me, John D. Biles, deputy clerk U. S. D. court in and for Clarke county, duly commissioned and sworn, residing in Vancouver, personally appeared
1219 Amos C. Short, of Clarke county, W. T., unto me known as the subscriber to the foregoing affidavit, and made oath thereto in due form of law.

In testimony whereof I have hereunto set my hand and official seal.

[SEAL.]

J. D. BILES,
Deputy Clerk U. S. D. Court.

Affidavit of Witness for a Settler Claiming as a Married Man.

Andrew J. Bolan, of Clarke county, in the Territory of Washington, being first duly sworn, says that he is personally acquainted with Henry C. Morse, the person who claims a donation right to the tract of land described in the annexed notification to the register and receiver of Washington, and Samanth Morse, his wife; that he has known them to live together as man and wife from the 17th day of February, 1853, and that they are and were reputed by their neighbors as such during said period.

A. J. BOLAN.

WASHINGTON TERRITORY, } ss:
Clarke County, }

On this 10th day of July, 1855, before me, John D. Biles, deputy clerk of U. S. D. court in and for Clarke county, duly commissioned and sworn, residing in Vancouver, personally appeared
1220 Andrew J. Bolan, of Clarke county, W. T., unto me known as the subscriber to the foregoing affidavit, and made oath thereto in due form of law.

In testimony whereof I have hereunto set my hand and official seal.

[SEAL.]

J. D. BILES,
Deputy Clerk U. S. D. Court.

(Endorsed:) Notification of settlers on surveyed lands. No. 1281. Dated 10th July, 1855. Filed July 19th, 1855.

Description.

Beginning at a point 2.75 chains east and 78.50 south of the post for quarter section corner to sections 22 and 27, in township 2 north, of range 1 east, running thence north 86 chains, thence east 34 chains, thence S. 22 degrees 45′ W. 93 chains to the place of beginning, containing 147 acres.

H. C. MORSE.

1221 *Final Proof of a Settler on the Public Lands in Washington Territory.*

In townsliip 2 north of range 1 east.

No. —.

Henry C. Morse, of Clarke county, Washington Territory, being first duly sworn, says that he is the person who executed and filed notification No. —, now on file in the land office at Olympia, Washington Territory; that he has resided upon and cultivated the tract of land described in said notification continuously from the 18th day of January, 1854, to the 22 day of June, 1860; and he further says that he is not acting directly or indirectly in the employ of any other person or persons, but that he has taken said land for his own use and benefit.

H. C. MORSE.

Subscribed and sworn to before me, in Vancouver, this 22nd day of June, 1860.

[SEAL.] JNO. D. BILES,
Notary Public.

No. —.

John T. Lovelace, of Clarke county, Washington Territory, being first duly sworn, says he is in no way interested in the tract of land claimed as a donation by H. C. Morse; that he is personally acquainted with said H. C. Morse, and knows that he has personally resided upon and cultivated said tract of land continuously
1222 from the 18th day of January, 1854, to the 18th day of June, 1860.

J. T. LOVELACE.

Subscribed and sworn to before me, in Vancouver, this 18th day of June, 1860.

[SEAL.] JOHN D. BILES,
Notary Public.

No. —.

John Corliss, of Clarke county, Washington Territory, being first duly sworn, says he is in no way interested in the tract of land claimed as a donation by H. C. Morse; that he is personally acquainted with said H. C. Morse, and knows that he has personally resided upon and cultivated said tract of land continuously from the 30th day of January, 1854, to the 22nd day of June, 1860; and he further says he is personally acquainted with Samantha Morse, the wife of said Henry C. Morse, and knows they have lived together as man and wife, and have been during said period reputed as man and wife by their neighbors.

JOHN CORLISS.

Subscribed and sworn to before me, in Vancouver, this 22nd day of June, 1860.

[SEAL.] JNO. D. BILES,
Notary Public.

(Endorsed:) Exhibit 53. Interior Department record. Offered by defendants and filed April 17th, 1888. W. Byron Daniels, referee.

1223 (Examined.)

DEPARTMENT OF THE INTERIOR,
GENERAL LAND OFFICE, W. D. S.
WASHINGTON, D. C., *March* —, 1888.

I, S. M. Stockslager, Commissioner of the General Land Office, do hereby certify that the annexed copy is a true and literal exemplification of papers as the originals thereof appear on file in this office in the record of the case of the St. James mission and others, claimants to land at Vancouver, Washington Territory.

In testimony whereof I have hereunto subscribed my name, and caused the seal of this office to be affixed, at the city of Washington, on the day and year above written.

[SEAL.] S. M. STOCKSLAGER,
Commissioner of the General Land Office.

At a special session of the county commissioners' court for the county of Clarke, in the Territory of Washington, convened and held at the county-seat of said county on Monday, the 27th day of October, A. D. 1873.

Present: D. R. Fales, Jesse Holbrook, and John Proelestel, county commissioners.

Court opened by John O'Keane, county auditor and *ex officio* clerk of said court.

1224 Our agent for said county, Columbia Lancaster, moved that the court consider and take action upon the following matter, to wit:

That whereas the Honorable Willis Drummond, Commissioner of the General Land Office, at Washington city, D. C., gave notice to the United States land officers at Vancouver, W. T., that he had decided the Clarke county-seat claim in Washington Territory adversely to said county and in favor of the town site of Vancouver, in said county and Territory, and directed that due notice of said decision should be given by the officer of said land office to all parties interested in said decision, and that J. C. Hileman, register of said land office, on the 30th day of August, A. D. 1873, gave and filed with the auditor of Clarke county proper notice of the decision of said Commissioner, in writing, and by said notice sixty days were allowed by said Commissioner in which the aggrieved party might appeal from the said Commissioner's decision, and the said decision of said Commissioner having been fully considered and his reasons therefor examined—

It is adjudged and declared that said decision is against the rights, legal and equitable, of said county of Clarke in the premises, and that said county of Clarke hereby appeals from the decision of the said Commissioner of said Gen'l Land Office to the Secretary of the Interior of the United States, and assign- the following as errors on the part of said Commissioner which induced said decision:

1225 1st. He erred in not advising Columbia Lancaster, our agent, of the time when definite action would be taken in the case, as by his promise contained in his letter of June 18th, 1872, marked "G," will more fully appear, the latter clause of which reads, "and I would state that when definite action is taken in the case you will be duly advised;" and it is hereby declared that such notice never did reach this court or any of its officers, nor our agent here, nor any other person acting for us, as we have any knowledge.

2nd. Said Commissioner erred in the force and effect he gives to the decision of the Supreme Court of the United States in the case of Daniel H. Lownsdale *et al. vs.* Joseph L. Parrish, 21 Howard, 290, wherein he considered that "Congress passed no law in anywise affecting title to lands in Oregon Territory till September 27th, 1850."

It is deemed by this very statement that on September 27th, 1850, the laws of the United States were then in force in Oregon, and that Washington Territory was at that date a part of the Territory of Oregon, and as such would be subject to the laws of the United States, and her people would and should derive full benefit of said laws; and that as the county of Clarke had in July, 1850, taken possession of said lands, and having always from that date held possession of the same, it is hereby declared error to decide that a

1226 law in force over an entire Territory becomes null and void or inoperative in either of the parts upon a division of said Territory.

Therefore it is error in giving Oregon a preference over Washington as relates to the force of general statutes.

It is deemed that upon a division of a Territory the parts retain all their legal rights, and the people in each part do not lose any of their vested rights, nor do they escape from any of their legal liabilities.

It is error to conceive that the act of May 26th, 1824, had no application to Washington Territory, for as Washington Territory formed a part of Oregon Territory and was embraced within it at its organization, at which time Gen'l Lane, then governor of Oregon, by his proclamation extended the general laws of the United States over Oregon, and as the said act of May 26th, 1824, was by its terms a general law, it became of force over the whole of Oregon, and could — be shaken from its dismembered parts by a division of said Territory; and under that general statute the authorities of Clarke county, in good faith, in July, 1850, took possession of said tract of land, there then being no valid claim existing upon it and it being unsold Government land, in the very condition contemplated by said act of May 26th, 1824.

We further assert that the citizens who reside upon the town-site claim, as well as the citizens who reside upon the county-
1227 seat claim, are citizens of the body of the county, and that the wishes and preferences of the citizens of the town-site claim cannot in any way impair the interest of the citizens of the whole body of the county.

It is therefore adjudged and decreed that said appeal be taken, and it is hereby ordered that John O'Keane, auditor of said county of Clarke and *ex officio* clerk of said court, place in the hands of J. C. Hileman, Esq., register of the United States land office at Vancouver, W. T., a certified copy of the foregoing record, attested by his name of office and the seal of the court, within the said sixty days allowed for this appeal.

D. R. FALES,
Chairman of Board of County Commissioners.

TERRITORY OF WASHINGTON, }
County of Clarke, } *ss:*

I, John O'Keane, auditor of Clarke county, W. T., and *ex officio* clerk of the county commissioners' court of said county, do hereby certify that the annexed transcript is a true and correct copy of the original record of the county commissioners' court in the matter of the appeal from the Commissioners of the U. S. General Land Office to the Secretary of the Interior of the United States.

In witness whereof I have hereunto set my hand and affixed the seal of said court this 27th day of October, A. D. 1873.

[SEAL.] JOHN O'KEANE,
Auditor and ex Officio Clerk as Aforesaid.

1228 (Endorsed:) Appeal of county commissioners of Clarke county, Wash. T'y, from the decision of the General Land Office made August 14, 1873, in the case of the Vancouver Town-Site Claim *vs.* Clarke County.

(Endorsed:) Exhibit 54. Interior Department record. Offered by defendants and filed April 17th, 1888. W. Byron Daniels, referee.

Examined.

DEPARTMENT OF THE INTERIOR,
GENERAL LAND OFFICE, D. T. W. D. S.
WASHINGTON, D. C., *March* —, 1888.

I, S. M. Stockslager, Commissioner of the General Land Office, do hereby certify that the annexed copy of a letter dated October 28th 1873, addressed to the Honorable Secretary of the Interior by the register of the U. S. land office at Vancouver, Washington Territory, is a true and literal exemplification of said letter as the same appears on file in this office.

In testimony whereof I have hereunto subscribed my name, and caused the seal of this office to be affixed, at the city of Washington, on the day and year above written.

[SEAL.] S. M. STOCKSLAGER,
Commissioner of the Gen'l Land Office.

1229 U. S. LAND OFFICE,
VANCOUVER, W. T., *Oct. 28th*, 1873.

Hon. Columbus Delano, Secretar*ior* of the Interior, Washington, D. C.

SIR: I have the honor to transmit herewith for review and decision, the appeal of the county commissioners of Clarke county, W. T. from the decision of the Honorable Commissioner, G. L. O., made August 14th 1873, in the case of the Vancouver Town-Site Claim, *vs.* The County of Clarke, claiming a portion of said land as a county-seat.

Very respectfully, your obt. svt.,

J. C. HILEMAN, *Register.*

Thro' Hon. Commissioner, General Land Office, Washington, D. C.

(Endorsed:) Land office, Vancouver, W. T., Oct. 28, 1873. J. C. Hileman, register.

Transmits appeal of county commissioners of Clarke Co., W. T., from decision of Commissioner G. L. O., made August 14, 1873, in the case of the Vancouver Town-Site Claim *vs.* County of Clark.

1230 (Endorsed:) Exhibit 55. Interior Department record. Offered by defendants and filed April 17th, 1888. W. Byron Daniels, referee.

Examined.

DEPARTMENT OF THE INTERIOR, D. T.
GENERAL LAND OFFICE, W. D. S.
WASHINGTON, D. C., *March* —, 1888.

I, S. M. Stockslager, Commissioner of the General Land Office, do hereby certify that the annexed copy of a document dated July 10, 1874, signed A. G. Tripp, mayor, is a true and literal exemplification of said document as the original thereof appears on file in this office in the record of the case of St. James mission and others, claimants to lands at Vancouver, Washington Territory.

In testimony whereof, I have hereunto subscribed my name, and caused the seal of this office to be affixed, at the city of Washington, on the day and year above written.

[SEAL.] S. M. STOCKSLAGER,
Commissioner of the General Land Office.

1231 VANCOUVER, WASHINGTON T'Y, *July 10th*, 1874..

To the register of the U. S. land office:

I, Abel G. Tripp, mayor of the city of Vancouver, in compliance with a resolution of the common council of said city, copy marked "Voucher No. 3," herewith, hereby apply to enter, in trust for the several use and benefit of the occupants thereof, according to their respective interests, and under the provision of the act of Congress approved March 2nd, 1867, entitled "An act for the relief of the inhabitants of cities and towns upon the public land," and the act of

Congress amendatory thereof approved June 8th, 1868, the following-described parcel of land known and described upon the official plat of the U. S. survey as follows, to wit:

Beginning at a Balm of Gilead tree on the north and right bank of the Columbia river, thence north 78.00 ch's intersect lines between secs. 22 and 27, 330 ch's east of post for ¼-sec. corner 79.75 ch's to the N. W. corner of town site, thence east 31.60 ch's to the west boundary of the U. S. military reservation and N. E. corner of town site thence S. 22 degrees 45′ W. 2.18 ch's intersect line between secs. 22 and 27, 5.74 ch's west of cor. to secs. 22, 23, 26, and 27, 85.98 ch's to the S. W. corner of military reserve, thence S. 45 degrees W. 5 links to cottonwood tree and place of beginning, in township 2 north of range 1 east of the Willamette meridian, containing in all 129.20 acres as shown by the official plat of survey of said township for which I offer to pay one dollar and twenty-five cents per acre, herewith tendering the purchase-money therefore.

1232

This application is made as supplemental to, and for the purpose of perfecting an application heretofore made for the entry of said land in trust for the use and benefit of the occupants thereof under the provisions of the act of Congress approved May 23, 1844, said act having been repealed by act of Congress approved July 1, 1864.

Given under my hand this 10th day of July, A. D. 1874.

A. G. TRIPP, *Mayor.*

(Endorsed:) Application of Abel G. Tripp, mayor, to enter Vancouver town site.

(Endorsed:) Exhibit 56. Interior department record. Offered by defendants and filed April 17th, 1888. W. Byron Daniels, referee.

1233

Examined.

DEPARTMENT OF THE INTERIOR,
GENERAL LAND OFFICE, W. D. S.
WASHINGTON, D. C., *March* —, 1888.

I, S. M. Stockslager, Commissioner of the General Land Office, do hereby certify that the annexed copy of a document certified under date of July 8th, 1874, by August A. Schalbeus, clerk of the common council of the city of Vancouver, Wash. Ty., is a true and literal exemplification, of said document as the original thereof appears on file in this office in the record of the St. James mission and others, claimants to land at Vancouver, Washington Territory.

In testimony whereof, I have hereunto subscribed my name, and caused the seal of this office to be affixed at the city of Washington on the day and year above written.

[SEAL.]

S. M. STOCKSLAGER,
Commissioner of the General Land Office.

CITY HALL, VANCOUVER, WASH. T'Y, *Sept. 15th*, 1873.

Council met, it being a regular meeting.

Present: His honor A. G. Tripp, mayor; Councilmen Wall, Suiste, Jaggy, Stegert, and Rank.

Absent: Councilmen Hidden and Wither.

* * * * * * * *

1234 On motion of Mr. Jaggy, the following resolution was read and unanimously adopted:

Resolved, That his honor A. G. Tripp, mayor of the city of Vancouver, Wash. T'y, is hereby authorized and requested to enter in the local U. S. land office at Vancouver, W. T., the tract of land known as the "Vancouver town-site claim" in trust for the several use and benefit of the occupants thereof, according to their respective interests, and under the provisions of the act of Congress, approved March 2nd, 1867, entitled, "An act for the relief of the inhabitants of cities and towns upon the public land," and the act of Congress amendatory thereof, approved June 8th, 1868.

* * * * * * *

AUGUST A. SCHABEN, *Clerk*.

CITY HALL, VANCOUVER, WASHINGTON TERRITORY.

I, August A. Schaeben, clerk of the common council for the city of Vancouver, Washington Territory, do hereby certify that the foregoing is a true transcript from the minutes of the common council of the city of Vancouver, Wash. T'y, Book "B," pages 22 and 23.

Given under my hand and the seal of the city of Vancouver, Wash. T'y, this 8th day of July, A. D. 1874.

[SEAL.] AUGUST A. SCHAEBEN,
Clerk of the Common Council of the City of Vancouver, W. T.

1235 (Endorsed:) No. 2. Certified copy of a resolution of the common council of the city of Vancouver, W. T'y, authorizing and instructing the mayor to make the entry of the Vancouver town-site claim under the acts of Congress approved March 2, 1867, and approved June 8th, 1868.

(Endorsed:) Exhibit 57. Interior Department record. Offered by defendants and filed April 17th, 1888. W. Byron Daniels, referee.

Examined.

DEPARTMENT OF THE INTERIOR, D. T.
GENERAL LAND OFFICE, W. D. S.
WASHINGTON, D. C., *March* —, 1888.

I, S. M. Stockslager, Commissioner of the General Land Office, do hereby certify that the annexed copy of a document dated 2nd. April, 1862, signed Amory Holbrook, is a true and literal exemplification of said document as the original thereof appears on file in this office, in the record of the case of St. James mission and others, claimants to land at Vancouver, Washington Territory.

In testimony whereof I have hereunto subscribed my name, and caused the seal of this office to be affixed, at the city of Washington, on the day and year above written.

[SEAL.] S. M. STOCKSLAGER,
Commissioner of the Genl. Land Office.

1236 PORTLAND, OREGON, 2*nd. Apr.* 1860.

SIR: Having just returned from the Atlantic States, I am greatly surprised to learn that A. G. Henry, surveyor general of Washington Territory, has decided the matter of conflict of boundary between the various claimants to that portion of the public lands on which the town of Vancouver in Washington, Ter. stands in favor of the Catholic mission.

The action of Mr. Henry in this matter, has been most extraordinary. I do not mean as to the result, but in his manner of conducting the investigation. He has given no notice to the parties opposed to the mission. He has received *ex parte* affidavits, and in all respects seems to have been guided solely by a desire to meet the demands of the mission, without regard to the rights *rights* of others.

I desire therefore earnestly in behalf of the U. S. Government, who have a military reservation on the land in dispute, and of the city corporation of Vancouver, the site of which is within the mission claim, to protest against the action of Mr. Henry, and to give this notice of appeal from his decision. I have not yet been able to obtain a copy, and indeed it was made very privately several weeks ago, and knowledge of it only came out by accident;
1237 no notice was given to me or my associate counsel, and no opportunity was allowed for the filing of arguments upon the testimony submitted some months ago, at which time it was agreed that further time should be given for filing proofs.

I trust this will be sufficient to induce you to suspend action, until my clients have an opportunity fully to submit their case, and also to show that the course of Mr. Henry has been partial, irregular and most unjust.

I am very respectfully, your obt. servant,

AMORY HOLBROOK,
Attorney for City of Vancouver, and for U. S. in Matter of Reserve.

Honorable Mr. Edmunds, Commissioner, etc.

(Endorsed:) Amory Holbrook, Portland, Oregon, April 2nd, 1862, takes an appeal from the surveyor general of Washington T'y in reference to conflicts of boundary with the town site of Vancouver, and also a mil. reservation.

(Endorsed:) Exhibit 58. Interior Department record. Offered by defendants and filed April 17th, 1888. W. Byron Daniels, referee.

1238 Examined.

DEPARTMENT OF THE INTERIOR, D. T.
GENERAL LAND OFFICE, W. D. S.
WASHINGTON, D. C., *March* —, 1888.

I, S. M. Stockslager, Commissioner of the General Land Office, do hereby certify that the annexed copy of a document certified under date of July 8th 1874, by August A. Schalben, clerk of the common council of the city of Vancouver, Wash. Ty., is a true and literal exemplification of said document as the original thereof appears on file in this office in the record of the case of St. James mission and others, claimants to land at Vancouver, Washington Territory.

In testimony whereof I have hereunto subscribed my name, and caused the seal of this office to be affixed, at the city of Washington, on the day and year above written.

[SEAL.] S. M. STOCKSLAGER,
Commissioner of the General Land Office.

Abel G. Tripp received 85 votes for mayor.

* * * * * * *

AUGUST A. SCHAEBEN, *Clerk.*

TERRITORY OF WASHINGTON, } ss:
County of Clarke, City of Vancouver, }

1239 I, August A. Schaeben, clerk of the common council for the city of Vancouver, Washington Territory, do hereby certify that the foregoing is a true transcript from the minutes of the common council of the city of Vancouver, Wash. T'y, Book "B," pages 28 and 29.

Given under my hand and the seal of the city of Vancouver, Wash. T'y, this 8th day of July, A. D. 1874.

[SEAL.] AUGUST A. SCHAELBEN,
Clerk of the Common Council of the City of Vancouver, Wash. T'y.

TERRITORY OF WASHINGTON, } ss:
County of Clarke, City of Vancouver, }

This is to certify that Abel G. Tripp is the duly elected mayor for the city of Vancouver, Wash. T'y, who was elected on the 3rd day of November, 1873, and who legally qualified the 10th day of November, 1873, and that he is still the duly elected and qualified mayor of the city of Vancouver, Wash. T'y.

Given under my hand and the seal of the city of Vancouver, Wash. T'y, this 8th day of July, A. D. 1874.

AUGUST A. SHALBEN,
Clerk of the Common Council of the City of Vancouver, Wash. T'y.

[SEAL.]

1240 (Endorsed:) No. 3. Certificate of the clerk of the common council of the city of Vancouver, W. T'y, that A. G. Tripp, Esq., is the duly elected mayor of the city of Vancouver, W. T'y.

CITY HALL, VANCOUVER, W. T'Y, *Nov.* 4, 1874.

Council met according to adjournment.

Present: A. G. Tripp, mayor; councilmen Wall, Hidden, Jaggy, Rank, and Suiste.

Absent: Councilmen Stegert and Wintler.

* * * * * * *

The poll books were presented to the council, which were carefully examined, and the council canvassing the returns of the election for city officers held in the city of Vancouver on the first Monday, to wit, the 3rd day of November, A. D. 1873, found from said canvass as follows, to wit:

The whole number of votes cast at said election was ninety-three (93) votes.

(Endorsed:) Exhibit 59. Interior Department record. Offered by defendants and filed April 17th, 1888. W. Byron Daniels, referee.

1241 Examined.

DEPARTMENT OF THE INTERIOR, D. T.
GENERAL LAND OFFICE, W. D. S.,
WASHINGTON, D. C., *March* —, 1888.

I, S. M. Stockslager, Commissioner of the General Land Office, do hereby certify that the annexed copies from pages 1 (one) to 12 (twelve) both inclusive, are true and literal exemplifications of documents as the originals thereof appear on file in this office, in the record of the case of the St. James mission and others, claimants to land at Vancouver, Washington Territory.

In testimony whereof I have hereunto subscribed my name, and caused the seal of this office to be affixed, at the city of Washington, on the day and year above written.

[SEAL.] S. M. STOCKSLAGER,
Commissioner of the General Land Office.

(Exhibit No. 60 is found in vol. 3.)

Examined.

DEPARTMENT OF THE INTERIOR, D. T.
GENERAL LAND OFFICE, W. D. S.
WASHINGTON, D. C., *March* —, 1888.

I, S. M. Stockslager, Commissioner of the General Land Office do hereby certify that the annexed copy — opinion dated May 27, 1864, of Attorney General, Edward Bates, addressed to Hon.
1242 J. P. Usher, Secretary of the Interior, in the matter of "The Missionary Society of the Methodist Episcopal church," claim-

ing lands at The Dalles, Oregon, is a true and literal exemplification of said opinion, as the original thereof appears on file in this office.

In testimony whereof I have hereunto subscribed my name, and caused the seal of this office to be affixed, at the city of Washington, on the day and year above written.

[SEAL.] S. M. STOCKSLAGER,
Commissioner of the General Land Office.

ATTORNEY GENERAL'S OFFICE, *May 27th*, 1864.

Honorable J. P. Usher, Secretary of the Interior.

SIR: In the first place, I must beg your pardon for my long delay in answering your letter of the 27th. of April, relating to a land claim of "The Missionary Society of the Methodist Episcopal church" at The Dalles of the Columbia in Oregon.

My first impression was that the claim presented, a question of legal title to land, judicial entirely, and not proper to be determined by any executive department. But, desiring to treat with all respect, the question which you propound to me, I have caused careful examination to be made before proceeding to act upon that preconceived opinion.

1243 Your letter contains a statement of facts which I suppose to be drawn from the evidence, which the parties before you chose to offer, but it does not appear that those are the only facts in the case, and the evidence offered to you, the only evidence applicable to the case.

But enough does appear to show, that there are various other claims to the land there at The Dalles which conflict in whole or in part, with the claim of the missionary society. It appears that the Government, has made a military reservation there, and that "the boundaries (of the claim) conflict with pre-emption and donation claims."

And as these claims all depend for their validity and relative value, upon a matter of fact, that is possession and occupancy, and the time thereof, it is manifest that the case is eminently proper for the decision of a jury in a court of law.

The title of the claimants exists only in the act of Congress of August 14, 1848, and the terms of that act as you quote them, are, "that the title to the land not exceeding 640 acres, now occupied, as missionary stations, among the Indian tribes in said Territory, together with *with* the improvements thereon, be confirmed and established in the several religious societies, to which said missionary stations respectively belong."

I do not wonder that legal difficulties should arise in attempting to execute an act of Congress, so vaguely and incautiously expressed.

Yet, one thing is plain: If the claimants can by proof, before 1244 the proper tribunal, bring themselves within the words of the act, they have a perfect title to the land, as against the United States, and that title will be good and available, as against any adverse claimant who cannot show an older title.

The law speaks for itself, and all that the claimants have to prove

to establish a perfect title to the land, is that upon the 14th of August, 1848, they did occupy the land, as a missionary station, among the Indian tribes in said Territory, (Oregon), but without such proof they have no title at all.

And thus it appears that the claim of the "religious society," presents a question purely judicial, and in my opinion, not proper to be determined by any executive officer of the Government.

Nay, no executive officer has power to determine it, definitely, for whatever you or I may declare upon the subject, the losing party is not bound to submit to our judgment. If he thinks himself vested with the legal title, by force of the act of Congress, he will bring his action against any one found in adverse possession; and the court which tries such case, will of course, be bound by the statute law, and the proven facts, and not by the opinion of the executive officer.

With this class of land titles, *i. e.* direct grants by act of Congress, with no provision for after examination, by commissioners of courts.

I have been forced to be somewhat familiar, the act of the
1245 13th of June, 1812, (2 Stat. 748) granted many lots of land to persons inhabiting divers towns, in Missouri, upon the single condition of inhabitation, cultivation or possession, prior to the 20th of December, 1803," (the day when possession was actually taken of Louisiana, by the United States, under the purchasr from France,) and both the local courts and the Supreme Court of the United States have uniformly held that the act itself is a perfect title, when the required facts are found by a jury.

Under this act the General Land Office, declined, for long, to issue patents, seeing that the act itself was a perfect title, and that, in its terms, it did not require a patent to issue.

But the act of December 2, 1854, (10 Stat. 599) makes it lawful to issue patents upon such statutory grants, which, however, are to operate only as relinquishments on the part of the United States, and are not to interfere with the rights of adverse claimants.

This act, I think need not be considered, in this case, for it does not require the issuing of a patent, in any such case, but only permits it, makes it lawful, and thereby leaves it to the discretionary judgment of your department, to be guided by the particular circumstances of each case.

Permit me to remark that a grant of public land by statute, is the highest and strongest form of title known to our law, it is
1246 stronger than a patent; for a patent may be annulled by the judiciary, upon a proper case shown of fraud, accident or mistake; while even Congresss cannot repeal a statutory grant.

After what has been said above, it cannot be necessary for me to give specific answer to each one of your questions, indeed, some of them I have no power to answer. The first, for instance, relates only to the fact whether the claimants did or did not occupy the land as a mission station, on the 14th of August 1848, I cannot answer that, because it is a question of fact, fitter for a jury than for me.

Without therefore, answering your questions, *seriatim*, I will state my conclusions in another form, which I hope may be found suffi-

cient to meet the exigency of the matter, now actually depending in your department.

1. I am of opinion that the claimants have or have not, legal title to the land in question, by the direct force of the act of August, 14, 1848, and without any action in the General Land Office, as to questions touching the legal construction, of the act, the facts required to be proven, and quantity of the land, all these it seems to me are eminently proper for judicial determination, and ought to be left to the decision of the courts.

2. I do not think any executive department, (not yours nor mine) is the proper judge of a disputed question of this sort, and I
1247 would decline to assume the jurisdiction, by issuing a patent. And this, the rather, because if the claimants really have a good title, the patent, is not at all, necessary to its validity.

3. I think that the claimants ought to be left to assert their title in the courts of law, without embarrassing their case, by the interference of the executive officers. This is the familiar practice in other States under similar grants; and several such cases have been re-examined and sanctioned by the Supreme Court.

Which is respectfully submitted, by your obedient servant,

EDWARD BATES,
Attorney General.

(Endorsed:) Exhibit 61. Interior Department record. Offered by defendants and filed April 17th, 1888. W. Byron Daniels, referee.

Examined.

1248 DEPARTMENT OF THE INTERIOR, D. T.
GENERAL LAND OFFICE, W. D. S.
WASHINGTON, D. C., *March* —, 1888.

I, S. M. Stockslager, Commissioner of the General Land Office, do hereby certify that the annexed copy of a letter dated June 3rd, 1868, addressed by Britton and Gray attorneys for city of Vancouver, to Hon. Jos. S. Wilson, Commissioner of this office, is a true and literal exemplification of said letter as the original thereof appears on file in this office.

In testimony whereof I have hereunto subscribed my name, and caused the seal of this office to be affixed, at the city of Washington, on the day and year above written.

[SEAL.] S. M. STOCKSLAGER,
Commissioner of the General Land Office.

WASHINGTON, D. C., *June 3rd*, 1868.

Hon. Jos. S. Wilson, Commissioner of General Land Office.

SIR: As attorneys for the city of Vancouver, Washington Territory, we have the honor to call your attention to the contest between the said city and the so-called Catholic mission, of St. James, for that portion of sections 27 & 22 T. 2, N. R. 1 E. delineated
1249 upon the township plat as "town site of Vancouver," and lying between the U. S. military reservation of Fort Vancouver on

the east and southeast and the donation claim of the heirs of Amos M. Short on the west. Besides the contest with the town site the mission claim was also in conflict with the U. S. military reservation of Fort Vancouver and with the donation claim of the heirs of Short. The claim of the city is only in conflict with that of the mission. After a protracted hearing before the surveyor general in 1860 the case was decided by your predecessor on the 10th of November, 1862, in a letter addressed to the Secretary of the Interior, rejecting the claim of the mission. (See records of private land claim division, vol. 4, p. 21.) This decision was based upon what purported to be copies of the evidence filed by Rev. Bronillet, the representative of the Catholic church in the case, it being claimed that the original record was lost on the steamer "Golden Gate." At the instance of the then Secretary of the Interior the surveyor general was instructed to forward a duly certified transcript of the record, and upon receipt of same the Commissioner rendered a second decision in which he also rejected the claim of the mission. (See letter to surveyor general of Oct. 16th, 1863, vol. 4, p. 191.) From this decision an appeal was taken by the mission claimants Feb'y 16, 1864, and the case was submitted to the Secretary Feb'y 23rd, 1864 (vol. 4, p. 248).

1250 At the same time a precisely similar case—that of the Mission of St. Peter's at the Dalles, in Oregon—was pending before the Secretary, and certain questions connected therewith were submitted by him to the Attorney General for his opinion. On the 27th of May, 1864, that officer rendered an opinion to the effect that in cases of claims set up by missions the executive departments have no jurisdiction, but that the questions involved must be first settled by the courts. Adopting this opinion of the Attorney General the Secretary returned the case of the Mission of St. James, as well as that of St. Peter, declining to act upon them in any way.

During the administration of the department of Secretary Harlem, however, the case of the Mission of St. Peter was again called up and a decision rendered Aug. 24, 1865, reversing the previous ruling of the department, based upon the opinion of Attorney General Bates, and holding that the executive departments have jurisdiction of the cases, and that it is the duty of the proper departments to consider and adjudicate the claims. This last ruling now governs the department, and under it the case of the Mission of St. Peter's, at the Dalles, has been settled and evidence of title delivered to the authorities of the church. In the case of the Mission of St. James, however, no action has been taken since the case was returned to your office by the Secretary, July 20, 1864.

1251 Under the circumstances we hold that the claim of the Mission of St. James must be considered as abandoned.

The parties having charge of the mission claim certainly had full notice of the change in the rulings of the department made by Secretary Harlem, as we find that it was at their instance that the evidence of title in the case of the Mission of St. Peter's was issued.

Copies of Secretary Harlem's decision were duly forwarded to the local officers, and from them, if in no other way, the parties would

have learned of the change in the ruling. Notwithstanding this they have allowed nearly three years to elapse without taking any further steps in the case either before the courts or to secure a resubmission of the case of the Secretary. They have had ample time and opportunity to prosecute their claim, but have neglected to do so, and we submit that the rights of other claimants should not be longer postponed on their account.

The existence of the city of Vancouver, formerly known as Columbia City, is matter of public notoriety, it being one of the most, if not the most, flourishing and important town in Washington T'y. The occupation of the entire premises here in question as a part of the town is fully established by the testimony in the case, the claim of the town having been initiated as early as 1850. It will
1252 be readily understood, therefore, that it is a matter of the first importance to the occupants who have placed improvements of great value upon the land that this controversy should be settled and their titles secured without further delay.

The claimants of the mission having neglected to prosecute an appeal from the decision of the department rejecting their claim, we now respectfully ask that in order to secure a final settlement of the case at the earliest possible date instructions may be issued to the register and receiver at Vancouver to permit an entry of the land claimed by the city by the corporate authorities in trust for the several use and benefit of the occupants thereof under the acts of May 23rd, 1844, under which their claim was initiated, and March 2nd, 1867, on their furnishing, if it should be deemed necessary, proof of present occupation, plat of survey, &c.

The land claimed by the town and which it is here asked they may be allowed to enter and receive a patent for is delineated upon the township plat and described upon the margin and in the field-notes as follows: "Beginning at a balm of Gilead tree on the north and right bank of the Columbia river, thence north 78.00 chs., intersect line between sections 22 and 27, 330 chains east of post for quarter section corner, 79.75 chains to the northwest corner of town site; thence east 31.66 chains to the west boundary of the U. S. military reservation and northeast corner of town site; thence
1253 south 22 degrees 45′ west 2.13 chains, intersect line between sections 22 and 27, 574 chains west of corner of sections 22, 23, 27, & 28, 85.98 chains to southwest corner of the military reservation; thence south 45 degrees west 5 link- to tree and place of beginning," containing 129.30 acres.

We are the more earnest in pressing our application for the reason that we are satisfied no injustice could be done the church establishment, if the entry of the town site should be allowed at once. The testimony shows that the church never, until a very recent. date claimed any portion of the land beyond that actually occupied by their church building. That such was the case is further shown by the fact that they permitted the settlement and occupation of the land by the town claimants, without objection, protest or notice of any kind. The entry of the land under the acts named above, can only be made in trust for the several use and benefit of the occu-

pants according to their respective interests and under such entry the church would secure title to all that they are in the possession of; and that we claim is all to which they are entitled. For these reasons we ask that the entry of the land by the town authorities may be authorized at once.

Very respectfully, your obedient servant,

BRITTON & GRAY,
Attorneys for City of Vancouver.

1254 (Endorsed:) Exhibit 62. Interior Department record Offered by defendants and filed April 17th, 1888. W. Byron Daniels, referee.

Examined.

DEPARTMENT OF THE INTERIOR, D. T.
GENERAL LAND OFFICE, W. D. S.
WASHINGTON, D. C., *March* —, 1888.

I, S. M. Stockslager, Commissioner of the General Land Office, do hereby certify that the annexed copy — letter dated Sept. 1 1862, of Amory Holbrook to this office, is a true and literal exemplification of said letter as the original thereof appears on file in this office in the record of the case of St. James mission and others, claimants to land at Vancouver, Washington Territory.

In testimony whereof, I have hereunto subscribed my name, and caused the seal of this office, to be affixed, at the city of Washington, on the day and year above written.

[SEAL.] S. M. STOCKSLAGER,
Commissioner of the General Land Office.

1255 PORTLAND, OREGON, 1*st Sept.*, 1862.

SIR: I had expected before this to forward the argument I desire to file in the matter of the Vancouver mission claim in behalf of the citizens of the town of Vancouver and of the military reserve of that place.

At the request of Brig. Gen. Alvord, commanding this district, who desires me to present certain documentary evidence which he expects to obtain from the officers of the Hudson's Bay Co., now at Victoria, I have delayed sending it, and have the honor to ask in his behalf, that no action may be had until a little more indulgence as to time, is allowed to me. I do not think it will be necessary to wait longer than ten or fifteen days more, and I will use every possible diligence to have it on file by the 25th of October.

I am very respectfully, your obedient servant,

AMORY HOLBROOK.

Hon. J. M. Edmonds, Commissioner, &c.

(Endorsed:) A. Holbrook, Portland, Oregon, Sept. 1st, 1862. Asks that no action be taken in the matter of the Vancouver mission claim, &c., &c., until he can file his argument.

1256 (Endorsed:) Exhibit 63. Interior Department record. Offered by defendants and filed April 17th, 1888. W. Byron Daniels, referee.

Examined.

DEPARTMENT OF THE INTERIOR, D. T.
GENERAL LAND OFFICE, W. D. S.
WASHINGTON, D. C., *March* —, 1888.

I, S. M. Stockslager, Commissioner of the General Land Office, do hereby certify that the annexed copy of letter dated May 2nd, 1862, addressed to Amory Holbrook to this office, is a true and literal exemplification of said letter as the original thereof appears on file in this office in the record of the case of St. James mission and others, claimants to land at Vancouver, Washington Territory.

In testimony whereof, I have hereunto subscribed my name, and caused the seal of this office to be affixed, at the city of Washington, on the day and year above written.

[SEAL.] S. M. STOCKSLAGER,
Commissioner of the General Land Office.

1257 PORTLAND, OREGON, 2*nd May*, 1862.

SIR: Several days since I had the honor of addressing you in regard to the Vancouver claim in Washington Territory, and the extraordinary report recently made by the surveyor general of that Territory concerning the same.

Since then, I have received a letter from him, a copy of which I enclose, that you may see the inconsistency and falsity of his report in stating that each claimant, by his attorney, filed argument. (See underlined words in copy.) It also appears that while the case stood open for further evidence, the party applying for time to produce it, privately withdrew his offer, and consented to a decision, whereupon the surveyor general, without notice to other parties concerned, proceeded to an examination and decision of the matter, one party only being in his confidence.

I send this for the purpose of proving, or rather cor-oborating former proofs of his unfair and surprising conduct in office.

The citizens of Vancouver, whose rights have been wantonly trifled with, and all who know anything of his readiness to sell his decisions to the highest bidder, feel deeply indignant and outraged by the course he has pursued in this and in other official proceedings. But my only purpose at present is to urge upon

1258 you the eminent propriety there is in allowing the various claimants to be heard before you, or before the register and receiver of the district in which Vancouver is situated. I do not wish the case sent back to Surveyor General Henry, for the parties concerned who are represented by me, have no confidence in his ability or integrity.

I have the honor to be very respectfully, &c.,

AMORY HOLBROOK.

Hon. Mr. Edmunds, Commissioner Gen. Land Office, Washington, D. C.

(Endorsed:) Amory Holbrook, Portland, Oregon, May 2, '62. Encloses a copy of a letter relating to the Vancouver claim in W. T.

(Endorsed:) Exhibit 64. Interior Department record. Offered by defendants and filed April 17th, 1888. W. Byron Daniels, referee.

1259 Examined.

DEPARTMENT OF THE INTERIOR,
GENERAL LAND OFFICE, W. D. S.
WASHINGTON, D. C., *March* —, 1888.

I, S. M. Stockslager, Commissioner of the General Land Office, do hereby certify that the annexed copy of a letter dated April 24, 1862, addressed by A. G. Henry, sur. gen'l W. T. to Amory Holbrook, is a true and literal exemplification of said copy letter as the same appears on file in this office.

In testimony whereof, I have hereunto subscribed my name, and caused the seal of this office to be affixed, at the city of Washington, on the day and year above written.

[SEAL.] S. M. STOCKSLAGER,
Commissioner of the General Land Office.

SURVEYOR GENERAL'S OFFICE, OLYMPIA,
WASHINGTON TER., *April 24th*, 1862.

Amory Holbrook, Esq., attorney U. S. mil. reserve, Vancouver.

SIR: Yours of the 14th inst. was received during my absence, and I hasten to respond to your enquiries.

The case you refer to was decided upon the documents
1260 and proof found by me upon the files of this office at the time of my assuming its duties. No evidence of any character, by any of the contestants has since been added thereto, among the documents was a wrapper endorsed in the handwriting of my predecessor, noting that the mission desired time to procure certain documentary evidence from London and Canada, and my predecessor had given time.

Nothing however indicated that the matter was to be re-argued or that the case was not fully submitted, with the above exception. Indeed lengthy arguments are on file by various counsel engaged, to wit: Those of Wm. H. Farrar, Esq., on behalf of the mission. E. D. Shattuck, Esq., for the heirs of A. M. Short, and W. G. Langford, Esq., for the city of Vancouver. No argument in behalf of the military reserve is on file. Shortly after entering office, the representatives of the mission notified me, that they had no further evidence to introduce, and consented that the report should at once be made. The latest evidence on file seems to have been received by my predecessor, at the hearing at Vancouver, at which as your letter informs me, you were present as attorney of the military officer in command at Vancouver.

Very truly, your obedient servant,

A. G. HENRY,
Sur. Genl. W. T.

(Endorsed:) Exhibit 65. Interior Department record. Offered by defendants & filed April 17th, 1888. W. Byron Daniels, referee.

1261 Examined.

DEPARTMENT OF THE INTERIOR, D. T.
GENERAL LAND OFFICE, W. D. S.
WASHINGTON, D. C., *March* —, 1888.

I, S. M. Stockslager, Commissioner of the General Land Office do hereby certify that the annexed copy of letter dated Jan. 25th 1864, addressed by John I. McGilora, to this office, is a true and literal exemplification of said letter as the original thereof appears on file in this office in the record of the case of St. James mission and others, claimants to land at Vancouver, Washington Territory.

In testimony whereof, I have hereunto subscribed my name and caused the seal of this office to be affixed, at the city of Washington, on the day and year above written.

[SEAL.] S. M. STOCKSLAGER,
Commissioner of the General Land Office.

WASHINGTON, D. C., *January 25th*, 1864.

SIR: At the request of the solicitor of the War Department, I appear for the United States in the case of the claim of the St. James mission to lands at Vancouver, W. T., embracing a portion of the military reservation and town site at that place.

1262 Your decision which was adverse to the mission, was rendered October 16th 1863, and the parties in interest notified immediately.

No appeal has yet been taken. It is important to the Government and the people of Vancouver, that this case should be finally disposed of and settled at the earliest possible moment, and no one can be benefitted by delay.

This saintly claim is a pestilential cloud that hangs like a pall over the little town of Vancouver, and in justice to the people of that place, as well as the Government, I ask that these claimants be required to take their appeal if at all, very soon. Their att'y, Wm. Farrar, Esq., is now and has been in this city ever since the rendering of your decision in Oct. last, in view of which fact, and the time that has already elepsed I would suggest that ten days might be a sufficient time within which to perfect their appeal.

I am your obt. servt. JOHN I. McGILORD,
United States Attorney for W. T.

Hon. I. M. Edwards, Com. Genl. Land Office.

(Endorsed:) Exhibit 66. Interior Department record. Offered by defendants and filed April 17th, 1888. W. Byron Daniels, referee.

1263 DEPARTMENT OF THE INTERIOR, D. T.
GENERAL LAND OFFICE, W. D. S.
WASHINGTON, D. C., *April 7th*, 1888.

I, S. M. Stockslager, Commissioner of the General Land Office, do hereby certify that the annexed copy of deposition of F. N. Blanchet, executed before John C. Carroll, notary public, Oregon, November 4th 1873, is a true and literal exemplification of said deposition as the original thereof appears on file in this office, in the record of case of the St. James mission, and others, claimants to land at Vancouver, Washington Territory.

In testimony whereof I have hereunto subscribed my name, and caused the seal of this office to be affixed at the city of Washington, on the day and year above written.

[SEAL.] S. M. STOCKSLAGER,
Commissioner of the General Land Office.

I, FRANCIS N. BLANCHET, of Portland, Multnomah county, Oregon, Roman Catholic archbishop of Oregon City, being duly sworn, deposeth and sayeth:

1st Q. Was there an old mill at Vancouver prior to 1846? And, if so, indicate its location on the map before you.

A. There was an old mill prior to 1838. Its location was back of the fort and separated from it by a lane. I think it was more west than shown on this map.

1264 2nd Q. Was it the same mill from which the chief factor of the Hudson's Bay Co. pointed out to Bishop Blanchet the land he authorized the St. James mission to occupy?

A. If the flour mill shown on the east is in its true position, the theatre shown on the west must be the building from which Chief Factor Douglass pointed out to me the land he gave me for building a Catholic church, which was to extend to the west. He allowed me to fence it. Had means permitted me to do so, I would have enclosed many acres.

3rd Q. Was there in 1848 a grave-yard belonging to the Mission of St. James in the vicinity of its church? If so, designate it on the map before you.

A. There was a public grave-yard before we arrived, in 1838, one-half of which after our arrival was used for the burial of the bodies of the members of our church. It was north or back of the ground given for our church and in its vicinity or joining it.

4th Q. Was it enclosed; and, if so, about how many acres were included in the grave-yard?

A. It was enclosed and contained some acres of land; perhaps two or three acres.

5th Q. About how many yards from the church was the grave-yard?

A. About one hundred yards, more or less, from the site of the present church.

N. B.—Two words effaced in this answer.—F. N. B.

1265 6th Q. Where did the Indians used to have their camping and grazing grounds when they visited the mission from a distance?

A. The used to have their camping on the shores and banks of the Columbia river and their grazing on the neighborhood and unenclosed land.

7th Q. To what distance from the church did they generally used to extend their camping and grazing grounds?

A. That is difficult to say; up and down along the shores and bank of the Columbia river, from whence they went to hear service inside of the fort before the building of the church, and after its dedication, May 31, 1846, from their home to that church.

8th Q. Where was the timber cut for the building of the church and priest's house, for the fuel, the fencing, and other uses of the mission?

A. In the forest, back and west of the fort, I suppose, as to the timber, and from the saw-mill, as to lumber. The timber for the frame was on the ground before I left for Europe in December, 1844.

9th Q. Did they go sometimes as far as a mile from the church for such timber, fencing, and fuel?

A. Perhaps so, for choosing the best, as there was no prohibition made to the servants of the Hudson Bay Company to go and cut on any place.

10th Q. Where was divine service held at Vancouver from 1839 to 1846?

1266 A. Inside of the fort, in a house set aside for the purpose, from 1838 to 1844; during my absence, from 1844 to 1847, in the fort, I suppose, before the dedication of the church, in May, 1846, and there after its dedication.

11th Q. Was that building ever used for any other purpose from that time on?

A. No; never.

12th Q. Can you designate its location on this map?

A. I think its location on this map to be correct, it being west of theatre, on the ground shown to me by Chief Factor Douglas.

13th Q. Where did the priests reside at Vancouver from the beginning of the mission until 1850?

A. From 1838 to 1844 inside of the fort; during my absence, no doubt in the same place; can't say when the residence at the church began after its dedication.

14th Q. Did he occupy a house by himself?

A. From the beginning we, Mr. Demers and I, occupied the half of a house divided by a corridor; had our meals served there by a boy at our service or by one of the stewards. No doubt this generous conduct of the Hudson Bay Company continued to be the same as long as the priest had his lodgin- inside of the fort.

15th Q. How far was his house from the building used for church purposes up to 1846?

A. If this means the building set aside in the fort for divine services, it was at hand.

1267 16th Q. Where did he usually take his meals? Was it at the officers' table or by himself in his own house?

A. Answered to the 14th question.

17th Q. Had he his own servant to attend to him in that house?

A. Answered as before.

18th Q. When the priests visited Vancouver did they take their meals at the officers' table or with the priest?

A. With the priest, except on some special occasion and by invitation.

19th Q. Where was the village of the Hudson Bay Co.'s servants situated in 1848?

A. On the western part of the fort, between the fort and the bank of the Columbia river.

20th Q. Can you say about how many buildings this village contained?

A. Cannot say; never counted them; perhaps fifty and more.

21st Q. What people occupied them? Were they whites, Indians, or half-breeds?

A. Whites, half-breeds, Kanakas, their women and children.

22nd Q. In what proportion were these people?

A. Difficult to say.

23rd Q. To what Christian denomination did the Indians of the village belong, if to any, and to what church did they used to go?

A. Our neophytes used to go to our chapel inside of the fort; other Indians were going to the Protestant service, kept in the house of the governor or chief factor.

1268 24th Q. In that same village was there a house known as the mission house?

A. There was. Father Langlois had his lodging there for some time. It was used for teaching the Indians, the wives and children of the whites and half-breeds.

25th Q. For what purpose was it used?

A. Answered before.

26th Q. Can you state about how far from the church this house was and its precise location in the village?

A. It was nearly in the middle of the village, about one or two hundred yards from the site of the present church.

F. N. BLANCHET,
Archbp. of O. C.

STATE OF OREGON, } ss:
County of Multnomah, }

Be it remembered that on this 4th (fourth) day of November, 1873, the above deposition was taken before me, at the city of Portland, county of Multnomah and State of Oregon, between the hours of four and six o'clock p. m.; that said answers were contained in said deposition made by F. N. Blanchet, the witness above named, and were by him reduced to writing; that before proceeding to the examination of said witness and the making of said answers the said F. N. Blanchet was duly sworn by me to tell the truth, the whole

truth, and nothing but the truth; that the deposition was
1269 read by the said F. N. Blanchet, and was by him subscribed.
Witness my hand and seal the day and year above written.

[SEAL.] JOHN C. CARROLL,
Notary Public, Oregon.

(Endorsed:) Exhibit 67. Interior Department record. Offered by defendants and filed April 17th, 1888. W. Byron Daniels, referee.

DEPARTMENT OF THE INTERIOR,
D. T. GENERAL LAND OFFICE, W. D. S.
WASHINGTON, D. C., *April 7th*, 1888.

I, S. M. Stockslager, Commissioner of the General Land Office, do hereby certify that the annexed copy of a letter dated October 29th, 1874, addressed by Charles Ewing to the Secretary of the Interior, is a true and literal exemplification of said letter as the original thereof appears on file in this office, in the record of the case of St. James mission and others, claimants to land at Vancouver, Washington Territory.

In testimony whereof, I have hereunto subscribed my name, and caused the seal of this office, to be affixed, at the city of Washington, on the day and year above written.

[SEAL.] S. M. STOCKSLAGER,
Commissioner of the General Land Office.

1270 LAW OFFICE OF CHARLES EWING, 606 F STREET,
WASHINGTON, D. C., *Oct. 29th*, 1874.

To the Honorable Columbus Delano, Secretary of the Interior.

SIR: In the event of your deciding that the weight of evidence is against the Mission of St. James, in the matter of your instructions relative to the time during which all action in the case was to be suspended waiting the action of Congress, I have the honor to call your attention to the following facts:

The claim of the mission, the townsite, the county seat, and the Short donation, and the question of the construction of the act of 1848, were fully argued by counsel for claimants before the private land claims committee decided that the Mission of St. James was entitled to the full grant under the act of 1848, and that act intended to and did grant full 640 acres; and it directed Mr. Pratt, of Iowa, to report a bill to the House, embodying this decision. Mr. Pratt, accordingly reported H. R. bill No. 1450, accompanied by report No. 630, copies of both being now on file with Mr. Asst. Atty. Genl. Smith, This was a day or two before the last call of the committee.

The day following the introduction of the bill No. 1450, some one of the opponents of the mission, called at the War Depart-
1271 ment and in the absence of the Secretary, when the chief clerk was oppressed with business, induced him to telegraph to the chairman of the private land claims committee that he had at the department new evidence, that had never been before any

officer that had acted upon this case, which would prove that, in point of fact, the Mission of St. James never existed at Vancouver, and asked that no further action should be taken in the case until the department could be heard. Upon the receipt of this telegram, Mr. Pratt was directed to return the case to the committee, to await the production of the evidence, promised by the War Department.

Knowing that the chief clerk of the War Department was mistaken and that he had no other evidence than what had been before all the officers who had acted in the case, I was satisfied that the appeal to the department was intended simply to produce delay, as that was the only means left for its opponents to defeat the mission. I therefore suggested that a subcommittee man go to the department and examine the evidence on file. This request was complied with; and Mr. Pratt reported back to the committee that he could find no other evidence than what they had already fully considered, whereupon, he was directed by a unanimous vote, to report the bill favorable to the House. He accordingly did so, but the committee had a day or two before been called for the last time, and in the crowd of business in the last week of the session, he was not
1272 able to do more than have the bill placed on the private calendar.

As the unanimous report of the committee, which there is every reason to believe will be adopted by the House, sustains the claim of the mission, with its construction of the act of 1848, and asks the passage of a bill ordering the issuance of a patent for the land that is included in the town-site claim, I believe that I am warranted in asking the cancellation of the certificates of entry that have been issued to the town-site, and that all further action in the case by the department be suspended waiting the action of Congress on House bill No. 1450.

This action is due, I think, both to courtesy for the House of Representatives, and to your own desire to protect the rights of citizens and to administer justice in your department.

I am very respectfully, CHARLES EWING.

(Endorsed:) Charles Ewing, Washington, D. C., 29th October, 1874. Concerning the issue of patent to the town-site of Vancouver, Washington Ter. Sent with other papers to the Gen. Land Office, 2nd Nov., 1874.

(Endorsed:) Exhibit 68. Interior Department record. Offered by defendants and filed April 17, 1888. W. Byron Daniels, referee.

1273 DEPARTMENT OF THE INTERIOR,
D. T. GENERAL LAND OFFICE, W. D. S.
WASHINGTON, D. C., *April 7th*, 1888.

I, S. M. Stockslager, Commissioner of the General Land Office, do hereby certify that the annexed copy of a letter dated October 30th, 1872, addressed by T. Mesplie, to this office, is a true and literal exemplification of said letter, as the original thereof appears on file in this office in the record of the case of St. James mission and others, claimants to land at Vancouver, Washington Territory.

In testimony whereof I have hereunto subscribed my name, and caused the seal of this office to be affixed, at the city of Washington, on the day and year above written.

[SEAL.] S. M. STOCKSLAGER,
Commissioner of the General Land Office.

(Said letter above referred to is found in vol. 3.) 382.

1274 DEPARTMENT OF THE INTERIOR, D. T.
GENERAL LAND OFFICE, W. D. S.
WASHINGTON, D. C., *April 7th*, 1888.

I, S. M. Stockslager, Commissioner of the General Land Office, do hereby certify that the annexed copy of a paper endorsed "menoranda filed by Rev. Bronilet on part of mission," is a true and literal exemplification of said peper, as the original thereof appears on file in this office, in the record of the case of St. James mission and others, claimants to land at Vancouver, Washington Territory.

In testimony whereof, I have hereunto subscribed my name, and caused the seal of this office to be affixed, at the city of Vancouver, on the day and year above written.

[SEAL.] S. M. STOCKSLAGER,
Commissioner of the General Land Office.

A priest can be a chaplain, a parish priest, or a missionary at the same time. These offices are perfectly compatible. We have an instance of it in this city. Father Boyle holds the office and receives the pay of hospital chaplain, with the consent of his bishop, and he holds at the same time at the hands of his bishop the office of parish priest of St. Peter.

1275 The present army chaplain of Fort Vancouver, W. T., Dr. McCarthy, Epicopalian clergyman, held his chaplaincy of Fort Vancouver, together with the office of parson in Portland, Oregon, and *per*ceived the pay of both offices for one or two years, until he resigned his parsonage on the plea that it was too far from his chaplaincy and too fatiguing for him, but nobody objected to his holding both as long as they would not interfere with each other; but the priest in charge of Vancouver never was a chaplain, was never engaged to the company as such, never received a cent in payment as such from the company, and of the 40 or 50 priests who ever came to Oregon since the commencement of the Oregon mission only two (the two first ones) came with the company; all the others, including the one who was in charge in 1848, came at the expense of the mission. The priest in charge of Vancouver never received from the company but his board and lodging whenever and as long as he chose to be there; he was offered it by the company through courtesy and hospitality; but board and lodging is not all that is wanted by a priest; it is hardly half of his necessary expenses. He needs money for clothing, for travelling, for care and attendance in sickness, for charities, which are constantly required of him, etc. Besides that, board and lodging was not a favor conferred to him alone, but all the priests of the country were treated

in the same way. Whenever they passed there on their missionary errands, and as long as they pleased to remain, were it for months, they had their board and lodging without being allowed to
1276 pay for it. Not only the priests, but the Protestant ministers of the country and all the visitors, either from the country or from abroad, met with the same courtesy and hospitality.

Visitors are known to have been there for months and years together without any charge.

Governor Simpson shows evidently that the priest in charge at Vancouver was not chaplain. He never says a word of a Vancouver chaplaincy. In two or three enumerations he mentions very carefully all the posts to which the company gives any aid; he mentions one or two posts where it has regular chaplains at 150 and 200 pounds each; he mentions even the chaplaincy of Victoria, but not a word of the chaplaincy of Fort Vancouver. He mentions 100 pounds paid (as he says) to the bishop of Oregon as an inducement to remain in that country, but not a word of a cent given to any one for services as chaplain at or near Fort Vancouver, and he should know it, being the governor of the company and every one of its transactions passing through his hands.

It is well established by the testimony of Governor Simpson and others that the practice of the company has always been to aid the propogation of religion—witness the numerous grants which it allows annually—and that it does not pretend to derive from them any right or control whatever over the donee. These grants
1277 are mere gratuities. Fort Vancouver, at the time of the grant, was not a white settlement; it was nothing but an Indian trading post in the midst of Indians, intended mainly for the Indians, occupied mainly by Indians and half-breeds; only a few dozains of whites, between officers and servants, were there, and all married to Indian women. Not one of them had the liberty of marrying a white woman. A large portion of the servants were Indians. All the women and all the children were either Indian or half-breed. The trading was carried on mainly with Indians coming from the whole country around. Not one white man was allowed to settle in the vicinity of Fort Vancouver. In the spring of 1848, on the north bank of the Columbia river, for the distance of 20 miles above Vancouver and fifty miles below, there was not one white habitation to be seen but those belonging to the company and its servants with the exception of that of Amos M. Short, and the testimony shows what it did cost him to have settled there.

There were no white settlers, and the Indians were numerous; several hundreds of them were at the fort or in its immediate vicinity. Even in 1856, eight years later, after having suffered greatly from epidemics and for them the deadly contact with the whites, the Klickitat tribes, among which Fort Vancouver was built, numbered over 300 and caused great uneasiness to the citizens
1278 and even the troops of the place.

The country around Fort Vancouver being an Indian country in the full sense of the word and Fort Vancouver nothing but an Indian trading post, the existence of the mission should bear

the same relations towards it as it would towards any other trading post in the Indian country. Well, supposing that in an Indian country containing a trading post kept by one or two white families a priest establishes in the immediate vicinity of the post a church, in which he daily teaches the Indians, baptises them, buries them, and carries on regular missionary labors, and that for the sake of economy, instead of boarding himself at his church, he boarded at the trading post, would not his mission be a mission within the meaning of the law? And because the few whites that may live at or come to the trading post would be allowed to attend divine service and receive the rites of the church at *at* his mission, would this change the nature of that mission?

To constitute an Indian mission in the sense of the law it should not matter whether the Indians attending it are working for a trading post now or then or the whole year round or working on their own account, provided the mission is in an Indian country, intended for the Indians, and attended by the Indians, whatever their occupation or mode of living, it should be sufficient. Suppose the
1279 Government, wishing to encourage the civilization of negro-s in the South, promises a reward to every Christian mission that will be established there among the negro-s and for the sake of the negro-s, will it enquire whether the mission is attended by free negro-s or by slaves—by negro-s working on their own account or on the account of others? No; provided that mission is attended by negro-s and is there for the benefit of negro-s at large, it is all that will be required by the Government. The mission at Vancouver was for the benefit of the Indians of that vicinity in general, whether working for the company (not as slaves—the company had none) or for themselves or roaming about, and in none of the several Indian missions then in operation in Oregon was there during the whole year round a more numerous and more regular Indian attendance than at the Vancouver mission. In the other missions the Indians used to be absent for a large portion of the year on their hunting expeditions: but here there was always a large number of them at hane, and the instructions could be kept — during the whole year.

(Endorsed:) Memoranda filed by Rev. Bronillet, on part of mission.

(Endorsed:) Exhibit 70. Interior Department record. Offered by defendants and filed April 17th, 1888. W. Byron Daniels, referee.

1280 Interior, D.

DEPARTMENT OF THE INTERIOR, D. T.
GENERAL LAND OFFICE, W. D. S.
WASHINGTON, D. C., *April 7th*, 1888.

I, S. M. Stockslager, Commissioner of the General Land Office, do hereby certify that the annexed copy of a letter dated July 24th, 187(3?) from surveyor general, Washington Territory, addressed to this office, and copies of enclosures A, B and C, mentioned

and enclosed therein, are true and literal exemplifications of said letter and enclosures as the originals thereof appear on file in this office, in the record of the case of St. James mission and others, claimants to land at Vancouver, Washington Territory.

In testimony whereof I have hereunto subscribed my name, and caused the seal of this office to be affixed, at the city of Washington, on the day and year above written.

[SEAL.] S. M. STOCKSLAGER,
Commissioner of the General Land Office.

SURVEYOR GENERAL'S OFFICE,
WASHINGTON TERRITORY, OLYMPIA (*July 24th?*), 187(3?)

SIR: I have the honor to acknowledge the receipt of your letter of the 7th inst., initial "D," referring to the report made by
1281 T. M. Reed, chief clerk in this office, relative to the survey of the St. James Roman Catholic mission claim at Vancouver, W. T.

In compliance with your request, I respectfully submit herewith the papers marked "A, B, and C," there having been no other or additional papers filed in this office relative to said mission claim, since the date of the report made by T. M. Reed, chief clerk, as above referred to.

The paper marked "C," herewith transmitted, is the original letter of protest from A. M. A. Blanchet, bishop of Nesqually, against the survey of the said mission claim, as approved by your office.

Very respectfully, your obedient servant,

W. McMICKEN,
Surveyor General, Washington Territory.

Honorable Willis Drummond, Commissioner General Land Office, Washington city, D. C.

SURVEYOR GENERAL'S OFFICE,
OLYMPIA, WASHINGTON TERRITORY, *June 4th*, 1873.

SIR: I have the honor herewith to transmit to you copy of field-notes and diagram of the official survey of the Catholic mission of St. James, at Vancouver, Washington Territory, executed by
1282 Levi Farnsworth, dep. surveyor, July 10th, 1872, under instructions through this office, from the Commissioner of the General Land Office, the said survey having been made, in the opinion of the said Commissioner, in strict conformity with the limits of the claim, of said mission as set forth in the decision of the honorable Secretary of the Interior, under date of March 11th, 1872, and embracing all the land occupied by the said mission, on the 14th day of August, 1848.

This is also respectfully to notify you that all parties desiring to file objections to the survey of said claim as herein referred to, will

be allowed thirty days from the date hereof to file such papers and protests as may by them be deemed wise and proper.

Very respectfully, your obedient servant,

T. M. REED,
Chief Clerk of Surveyor General's Office, Wash. Ter.

Rt. Rev. A. Blanchet, bishop of Nesqually, Vancouver, W. T.

(Diagram above referred to is hereto attached.)

(Here follows map marked p. 1282*a*.)

VANCOUVER, W. T., *June 16th*, 1873.

T. M. Reed, Esq., chief clerk of surveyor general's office, Olympia, W. T.

1283 SIR: Your favor of the 14th. inst. informing me on the part of the Commissioner of the General Land Office of the decision of the honorable Secretary of the Interior with regard to the St. James Catholic mission claim at Vancouver, is received together with diagrams of the piece of land allowed to the mission.

This is my reply:

I protest against the decision of the honorable Secretary of the Interior of March 11th, 1872, because the honorable Secretary of the Interior while holding that there was existing on the 14th. of August, 1848, the missionary station of St. James at Vancouver, W. T. yet, deciding that such missionary claim should be only the land enclosed by stakes or other marks, and "cultivated built upon or the like," while in truth and in fact the grant to the mission claim was the land not exceeding six hundred and forty acres then occupied as a missionary station, "together with the improvements thereon," thus showing clearly that the grant was not alone to the ground that was "fenced and improved and enclosed," but to the land occupied as a missionary station, not exceeding six hundred and forty acres, together with the improvements thereon.

Secondly, I protest against said decision because as there
1284 was an existing missionary station at the date of the grant, it was in common justice and fair dealing entitled to six hundred and forty acres including the improvements thereon as uniformly held by the several departments of the Government in respect to other missionary claims, and none of which were more meritorious than this, or better entitled to the full extent of the grant, and the practice of the Government heretofore universally held to and carried out with respect to other missionary claims ought not at this late day be departed from.

To prove the injustice of the recent decision it is sufficient to state that from 1848, until this decision in 1872, the General Land Department in all cases acted on, so far as I am informed, has invariably acknowledged the title of such simolar mission station to 640 acres whether fenced or not, that the title of the Methodists at The Dalles, Or., and the Presbyterians of Walla Walla, W. T., to 640 acres, were acknowledged by the same department though their

respective rights were in no way better than that of the St. James mission, and in the case of the Methodist mission at The Dalles, the Government paid it $20,000, for a portion of its claim occupied by the military which was not fenced in 1849 or at any time before.

Third, I protest against the survey made by order of the Commissioner of the General Land Office, and as made by the surveyor general of W. T. on the 10th of July, 1872, whereby the St.
1285 James mission claim is reduced and limited to less than half an acre, to wit: 144 feet square instead of 640 acres granted by the act of Congress, in 1848 and furthermore because even if the decision of the Secretary of the Interior was correct in his construction of the law, whereby missionary stations should be limited to the land occupied by them, nevertheless, the small parcel of land now surveyed and given to the St. James mission is greatly less than that occupied by it on the 14th of August 1848, and the said survey and diagrams do not include more than a fractional part of what it actually occupied and to which it is entitled even under the decision of the Secretary of the Interior.

Fourth, I furthermore protest against the survey as made because the surveyor general of W. T. in making said survey, did not regard my legal notification filed in his office, of the St. James mission claim, nor did said surveyor general have the legal right to determine *ex parte*, how much ground was occupied by the mission on the 14th. August, 1848, and there was no legal adjudication as to the extent of said occupancy.

Yours very respectfully,

X A. M. A. BLANCHET,
Bp. of Nesqually.

1286 (Endorsed.)

SURVEYOR GENERAL'S OFFICE,
OLYMPIA, WASH. TERRITORY, *July 24th*, 1873.

"C." Letters of Bishop Blanchet, dated Vancouver, W. T., June 16th, 1873, protesting against decision of Secretary of the Interior relative to St. James Roman Catholic mission claim at Vancouver, Wash. Ter.

WM. McMICKEN,
Surveyor General, Wash. Ter.

(Endorsed:) Exhibit 71. Interior Department record. Offered by defendants and filed April 17th, 1888. W. Byron Daniels, referee.

DEPARTMENT OF THE INTERIOR, D. T.
GENERAL LAND OFFICE, W. D. S.
WASHINGTON, D. C., *April 7th*, 1888.

I, S. M. Stockslager, Commissioner of the General Land Office, do hereby certify that the annexed copy of a document in the matter of the St. James mission and others, claimants to certain lands at Vancouver, Washington Territory, transmitted to this office by the

surveyor general of said Territory with his letter of April 29th, 1863, pursuant to telegraphic instructions given him by this
1287 office April 13th, 1863, is a true and literal exemplification of said document as the original thereof appears on file in this office.

In testimony whereof I have hereunto subscribed my name, and caused the seal of this office to be affixed, at the city of Washington, on the day and year above written.

[SEAL.] S. M. STOCKSLAGER,
Commissioner of the General Land Office.

G. 19262.

Le trente une mai milhut, cent quarante six nons soussigne pretre missionaire de la compagnie de Jesus muni des ponvois necessairy par Monsieur F. N. Blanchet avous ouvert et sotennellement beni, au Fort Vancouver, selon le rite de l'eglise, Catholique, la nowvelle eglise foundie et fatie par Monsieur Jackues, Duglas, facture enchef de l'honorable Compaignie d'Hudson, et gruve neur de dit Fort Vancouver, l'avous dedice au cultediveri sous les auspices du So. nom de Marie et le Patronage de l'apotre So. Jacques le Majeur, En foi de guoi out signe avec nous.

(Signed) JAMES DOUGLASS.
ROCQUE DUCHENY.
JOHN FINLAY.
JOSEPH PETRAIN.

(Signed) P. DE VOS, *S. J.*

April 24th, 1860.—The signature of James Douglass sworn to this day by Dr. Forbes Barclay. May 3rd, '60.—All the signatures identified by Joseph Petrain. (Signed) J. Tilton, S. G., W. T.

(Signed) J. TILTON,
Sur. Gen'l, W. T.

1288 TERRITORY OF WASHINGTON, } ss:
County of Clarke, }

I J. B. A. Bronillet, first being duly sworn, deposes and says that he is the R. Catholic priest stationed at the Mission of St. James, at Vancouver, Washington Territory, and is in charge of the same; that the register of said mission is in his possession; that the foregoing is a true copy of a record made in said register; that the names of Messrs. Douglas, Ducheny, Finlay, and Petrain were written in said register by them as witnesses to the dedication of the church edifice named in the foregoing copy of said record; that P. Devos, S. J., was the missionary priest who officiated at said dedication and signed his name to said record; that the words written upon the margin of the foregoing copy were written and signed by J. Tilton, Esq., surveyor general of Washington Territory, upon the leaf of said register which contains the foregoing record, and that said words and so signed by said surveyor general in said register *and* copied truly and in full in the foregoing.

J. B. A. BRONILLET.

Subscribed and sworn to before me this fourth day of May, A. D. 1860.

[SEAL.]

WM. KELLY,
Clerk of the District Court, 1st Jud. Dist.

1289 PORTLAND, O. T., *May 5th*, 1860.

I hereby certify that foregoing copy of the act of dedication of the church is a true and full copy of the original from the register as exhibited to me and identified by Dr. Forbes Barclay and Joseph Petrain.

JAMES TILTON,
Sur. Gen'l, W. T.

(Endorsed:) Copy. Act of dedication of Church of St. James, at Vancouver, & verification of signatures of Douglass & others. Mission.

(Endorsed:) Exhibit 72. Interior Department record. Offered by defendants and filed April 17th, 1888. W. Byron Daniels, referee.

The end of vol. 14.

1290 CATHOLIC BISHOP OF NESQUALLY *vs.* UNITED STATES *et al.* } Referee's Report, vol. 15.

Defense.

Interior Department record, Exhibits 73 to 97, both inclusive.

Filed November 12th, 1888.

A. REEVES AYRES, *Clerk*,
By W. H. JOHNSON, *Deputy.*

1291 DEPARTMENT OF THE INTERIOR,
GENERAL LAND OFFICE,
WASHINGTON, D. C., *April 7th*, 1888.

I, S. M. Stockslager, Commissioner of the General Land Office, do hereby certify that the annexed copy of affidavit of Joseph Petrain, executed before Julius Suiste, notary public, W. T., October 25th, 1873, is a true and literal exemplification of said affidavit, as the original thereof appears on file in this office in the record of the case of St. James mission and others, claimants, to land at Vancouver, Washington.

In testimony whereof I have hereunto subscribed my name, and caused the seal of this office to be affixed, at the city of Washington, on the day and year above written.

[SEAL.]

S. M. STOCKSLAGER,
Commissioner of the General Land Office.

Affidavit of Joseph Petrain, of Vancouver City, Clarke County, Washington Territory.

I, JOSEPH PETRAIN, of Vancouver City, Clarke county, W. T., born in Canada, aged 53 years, a farmer by occupation, and citizen of the United States, formerly probate judge of Clarke county aforesaid, being duly sworn, depose and say:

1292 Questions.

1st. Was there an old mill at Vancouver prior to 1846? And, if so, indicate its location on the map before you.

Ans. There was a mill at Vancouver prior to 1846. This old mill was 300 yards distant or about from the present church. I believe that on the map the distance from the mill to the actual church is too extended.

2nd. Was it the same mill from which the chief factor of the Hudson's Bay Co. pointed out to Bishop Blanchet the land he authorized the St. James mission to occupy?

Ans. Yes; it is the same mill.

3rd. Was there in 1848 a grave-yard belonging to the Mission of St. James in the vicinity of its church? If so, designate it on the map before you.

Ans. In 1848 there was a grave-yard in the occupancy of the Mission of St. James. The location, as far as I can see, is about correct—is designated as the map before me. A portion of the grave-yard was occupied by the Hudson's Bay Co. before 1838; was set apart to Mr. Demers, first Catholic priest in this county, for the use of Catholics.

4th. Was it inclosed; and, if so, about how many acres were included in the grave-yard?

Ans. It was enclosed. The enclosed grave-yard included between four (4) and five (5) acres of land, to the best of my recollection. It was about square.

5th. About how many yards from the church was the grave-yard?

Ans. The distance was about 200 yards from the present church—N. E. E. of said church.

1293 6th. Where did the Indians use to have their camping and grazing grounds when they visited the mission from a distance?

Ans. On the front of the present church, near the bank of the Columbia river.

7th. To what distance from the church did they generally use to extend their camping and grazing grounds?

Ans. From a quarter of a mile to two miles, east and west.

8th. Where was the timber cut for the building of the church and priest's house, for the fuel, the fencing, and other uses of the mission?

Ans. About a quarter of a mile from the present church.

9th. Did they go sometimes as far as a mile from the church for such timber, fencing, and fuel?

Ans. No; at that time—that is, before A. D. 1848—they never did.

10th. Where was divine service held at Vancouver from 1839 to 1846?

Ans. Inside of the Hudson's Bay Co. enclosure.

11th. Was that building ever used for any other purpose from that time on?

Ans. The building I have reference to, which was used from 1839 to 1846 and located in the Hudson's Bay Co. enclosure, was never used but for divine service.

12th. Can you designate its location on this map?

Ans. It was about in the center of the enclosure of the H. B. Co., nearer to the west.

13th. Where did the priest reside at Vancouver from the beginning of the mission until 1850?

1294 Ans. The priest generally, up to the year 1848, had his residence at the fort and sometimes in the house purchased by the mission outside the fort, east of the church, and since 1848 to 1850 more often he resided in said house or with the settlers around the fort. After 1848, when the priests resided at the fort and with the officers of the H. B. Co., it was through their own special invitation.

14th. Did he occupy a house by himself?

Ans. From the year 1848 up, I know of my own knowledge that the priest occupied a house for himself, outside the Hudson B. Co. inclosure, except when invited to reside for a few days at a time with the officers of the Co.

15th. How far was his house from the building used for church purposes up to 1846?

Ans. About 25 yards.

16th. Where did he usually take his meals; was it at the offic-s' table or by himself, in his own room?

Ans. Generally by himself, in his own room.

17th. Had he his own servant to attend to him in that house?

Ans. Generally he had.

18th. When priests visited Vancouver did they take their meals at the officers' table or with the priest?

Ans. Sometimes with the officers, sometimes with the priest.

19th. Where was the village of the Hudson's Bay Co.'s servants situated in 1848?

Ans. It was west of the Hudson's Bay Co.'s fort and S. W. of the St. James Mission church.

1295 20th. Can you say about how many buildings this village contained?

Ans. Between sixty (60) and seventy-five (75).

21st. What people occupied them; were they whites, Indians, or half-breeds?

Ans. All kinds.

22nd. In what proportion were these people?

Ans. More Indians and Kanakas than whites.

23rd. To what Christian denomination did the Indians of the village belong, if to any, and to what church did they use to go?

Ans. Before 1848 almost all of the Indians residing at or around the fort were Catholics, and frequented none but the Catholic church.

24th. In that same village was there a house known as the Mission house?

Ans. Yes; there was. From the years 1840 up to 1850.

25th. For what purpose was it used?

—. It was used to give religious and secular instruction to Indians and to all those that choose to attend.

26th. Can you state about how far from the church this house was and its precise location in the village?

Ans. The building referred to in the last question was situated about 300 yds. S. of the present church.

JOSEPH PETRAIN.

TERRITORY OF WASHINGTON, } ss:
County of Clarke, }

1296 I, the undersigned, being duly sworn, depose and say that the answers by me given to the within propounded questions are true to the best of my ability, recollection, and knowledge, so help me God.

JOSEPH PETRAIN.

Subscribed and sworn to before me this the 25th day of October, 1873.

In witness whereof I have hereunto set my hand and official seal the day and year as above stated.

[SEAL.] JULIUS SUISTE,
Notary Public, W. T., Clarke County.

(Endorsed:) St. James mission claim. Affidavit of Joseph Petrain. October 25th, 1873. Exhibit 73. Interior Department record. Offered by defendants and filed April 17th, 1888. W. Byron Daniels, referee.

DEPARTMENT OF THE INTERIOR, D. F.
GENERAL LAND OFFICE, W. D. S.
WASHINGTON, D. C., *April 7th*, 1888.

I, S. M. Stockslager, Commissioner of the General Land Office, do hereby certify that the annexed copy of letter dated June 27th, 1869, addressed to this office by Alleck C. Smith, is a true and literal exemplification of said letter as the original thereof appears on file in this office in the record of the case of St. James mission and other claimants to land at Vancouver, Washington Territory.

In testimony whereof I have hereunto subscribed my name, 1297 and caused the seal of this office to be affixed, at the city of Washington, on the day and year above written.

[SEAL.] S. M. STOCKSLAGER,
Commissioner of the General Land Office.

VANCOUVER, W. T., *June 27th*, 1869.

Commissioner General Land Office, Washington, D. C.

SIR: We received from you a letter, of which the following is a true copy:

D.

DEPARTMENT OF THE INTERIOR,
GENERAL LAND OFFICE, *January 22nd*, 1869.

Messrs. Potter & Smith, Vancouver, W. T.

GENTLEMEN: I have received your letter of the 15th ult. relative to the donation claim of Elizabeth Bateman (late widow of T. F. Biers) and in reply have to state that upon examination I find this claim in conflict with, 1st. the Catholic Mission of St. James. 2nd. Henry C. Morse donation claim, and 3rd. the townsite of Vancouver. Instructions are now in course of preparation looking to an adjustment of these claims, and will be transmitted to the register and receiver at Vancouver, at an early day.

Very respectfully, your obedient serv.

JOSEPH WILSON,
Commissioner.

After the reception of this letter we let the matter rest, knowing that you would, at the earliest proper moment, take it up for
1298 consideration. We have called upon the register and receiver here many times and asked if those instructions had been received, and each time have received a negative answer. It certainly is very strange that the promise in the letter above copied should not be kept. I have no doubt in my own mind but that you have forwarded them, and that the register and receiver here have failed to act in the premises, the receiver is the claimant of a portion of the land in dispute, and the register was acting in the capacity of attorney for the townsite of Vancouver, and for Mr. Brown, the receiver here, with refference to acquiring the title to the land he holds. Now we think that it is impos-ible for a person to claim a piece of land himself, act as attorney for another, and decide upon the rights of a third person. At the time that the surveyor general gave notice to the different claimants at this place to have their claims surveyed, Mrs. Bateman complied with the law and the instructions of the surveyor general, and had the proper preliminary survey made of this land, and filed in the proper office, the notificat- required. That was placed in the pigeon-holes of the office, and has remained there ever since. The law requires that the claim should be placed tempora-ly on the plats. This was not done. The surveyor general issued another notice for the final survey of this, in con-ection with adjoin-g donation claims. This was com-
1299 plied with, and the survey was made in good faith. The same deputy (Van Vleet) making the survey, and returning the field-notes in proper form to the surveyor general's office. Those field-notes were examined and approved as far as the cor-ectness of the survey was concerned, and filed in that office. The

surveyor general again gave notice, and all the proofs of thes- contestants were heard, and the case decided by the surveyor general in favor of the Catholic Mission of St. James, it was appealed to the Commissioner, and the decision of the surveyor general reversed, and yet, with all these proofs, the survey and everything that was intended by the law was done, all the instructions of the surveyor general were complied with strictly, and in the whole procee-ing the name or claim of Biers is not heard. I wrote some time since to the surveyor general with reference to the field-notes of the survey of the donation claim of Biers and received an answer that there were no field-notes of that claim filed there. Jared Hurd and myself were clerks in the office at the time that those notes were filed, and I refer-ed him to the book in which they were transcribed, and received from Mr. Reed, his chief clerk, a letter saying that those papers had been, for some purpose, abstracted from the office. The notification and proper proofs are on file here in the register's office, showing that Biers took this claim in 1850, and that for 3 years no other person resided upon, or claimed the land.

The final proofs are also filed, and the final survey made.
1300 She has lived upon the land and claimed it, without the intermission of a single day, for 19 years. She has fully and completely complied with the requirements of the donation law. She has spent five or six thousand dollars in trying to bring this matter to some kind of is-ue, and as yet she has been entirely unsuccessful. She has employed an able attorney at Washington, and in his letters to us here, it would seem that nothing whatever had been done, when we have your letters showing the reception of copies of all the notifications and proofs on file here. Mr. Flecher, the register here, during his brief visit to Washington city wrote to different parties here. One to Mr. Brown, the receiver, who owns, as I before stated, a large portion of the land in the boundaries of this survey, and to the city council, claimants of the town site on which he is a member, and also their attorney, informing them of the prosperous condition of their claims.

If the rights of Mrs. Bateman cannot be brought before the office here, and cannot be heard in Washington until the case is first heard and determined here, what course can properly be pursued? She has rights she has never slept on them. She has fil-ed everer requirement of the law, and after the land has become valuable, and after she has become poor she cannot be heard. If the rights of Mrs. Biers are to be determined, as you profes-ed in your letter above quoted, please forward the instructions as you stated you would, and if you have reconsidered the matter and determined not to do so, justice to her would demand that you should at once
1301 notify her of the fact. There has been gross neglect on the part of some of the officers in the Land Department in this matter, if there is a single proof wanting, if she has failed in one single instance, in not complying with the law, or the instructions of the General Land Office, say so, and let her know that she has forfeited her claim, and lost her right through ignorance—incapacity—or failure of proof. Your reply to this would be that you

cannot determine this case until it is before you, and we reply that we have tried every way to get a hearing and have been unsuccessful. Hoping that you will consider this case at your earliest convenience, and let us know in what manner this case can be passed through the register's office here, so as to be heard by yourself.

There are not less than one hundred persons here by whom it can be proved when Biers took the claim, and her continued residence and cultivation on it to the present time, and in fact, during the most of the time, especially the first four years, that no adverse claim at all was set up. The heirs of Biers, their claims certainly are good. They were born on the land and never lived a day off of it, and Bateman, their guardian, has tried in vain to get anything done by this circumlocution office here, for or against the claim.

Yours truly, ALLECK C. SMITH.

(Endorsed:) Exhibit 74. Interior Department record. Of-
1302 fered by defendants and filed April 17th, 1888. W. Byron Daniels, referee.

D. DEPARTMENT OF THE INTERIOR, D. T.
GENERAL LAND OFFICE. W. D. S.
WASHINGTON, D. C., *April 7th*, 1888.

I, S. M. Stockslager, Commissioner of the General Land Office, do hereby certify that the annexed copy of letter dated July 20th, 1864, addressed to this office by the assistant Secretary of the Department of the Interior, is a true and literal exemplification of said letter, as the original thereof appears on file in this office in the record of the case of the St. James mission and other claimants to land at Vancouver, Washington Territory.

In testimony whereof I have hereunto subscribed my
[SEAL.] name, and caused the seal of this office to be affixed, at the city of Washington, on the day and year above written.

S. M. STOCKSLAGER,
Commissioner of the General Land Office.

1303 DEPARTMENT OF THE INTERIOR,
WASHINGTON, D. C., *July 20th*, 1864.

SIR: By direction of the Secretary of the Interior, I now transmit to your office to be placed on file, the papers that were submitted with your report of the 23rd February last, and others since filed, in the appeal of the Catholic mission of St. James, from a decision of your office adverse to their claim to certain lands at Vancouver, Washington Territory.

This case has arisen under the same act of Congress as that which formed the subject of the Attorney General's opinion of the 27th May last, of which a copy has been furnished you.

Accepting the views of the Attorney General as controlling the action of this department, the Secretary declines to act upon the appeal that was taken in the case. Executive officers being without authority to determine any question of title involved in the claim, no further proceedings will be had in the premises.

The action of your bureau and that of the surveyor general is without binding effect, and the rights of St. James Catholic mission to the property in controversy, should not thereby be prejudiced.

1304 You will be pleased to furnish a copy of this communication to Rev'd J. B. A. Bronillet, agent for the mission, and also to transmit to Brig. Genl. Alvord, commanding at Fort Vancouver, a copy of this, together with a copy of the opinion of the Attorney General above mentioned.

I am, sir, very respectfully, your obt. servant;

W. T. OTTO,
Assistant Secreatry.

The Commissioner of the General Land Office.

(Endorsed:) Exhibit 75. Interior Department record. Offered by defendants and filed April 17th, 1888. W. Byron Daniels, referee.

1305 DEPARTMENT OF THE INTERIOR, D. T.
GENERAL LAND OFFICE, W. D. S.
WASHINGTON, D. C., *April 7th*, 1888.

I, S. M. Stockslager, Commissioner of the General Land Office, do hereby certify that the annexed copy of papers each dated February 15, 1854, signed H. C. Morse, and copy of affidavits of M. A. Tubb endorsed thereon each executed before Joseph M. Fletcher, register at Vancouver, W. T. July 8th, 1868, are true and literal exemplifications of said papers and affidavits, as the originals thereof appears on file in this office in the record of the case of the St. James mission and others, claimants to land at Vancouver, Washington Territory.

In testimony whereof, I have hereunto subscribed my name, and caused the seal of this office to be affixed, at the city of Washington, on the day and year above written.

[SEAL.] S. M. STOCKSLAGER,
Commissioner of the General Land Office.

VANCOUVER, *February 15th*, 1854.

MRS. BEERS: I hereby notify you to stop building ore making any improvements on my claim.

I hold three hundred and twenty acers of land, it lays be-
1306 tween Mrs. Short land claim and the gover-ment reserve, runnin- from the river put to Mr. Bolan claim, if you do not stop you will loose all of your improvements.

Yours with respect, H. C. MORSE.

(Endorsed.)

I hereby certify that I have served on the within-named person by delivering to her in her hands a true and correct copy of the within notice in Vancouver, W. T., this 15th day of February, 1854.

M. A. TUBB.

Subscribed and sworn — before me this 8th day of July, 1868.
JOSEPH M. FLETCHER,
Register at Vancouver, W. T.

VANCOUVER, *February 15th*, 1854.

Mr. BATEMAN: I hereby notify you to stop building ore making any improvements on my claim. I hold three hundred and twenty acers of land, it lays between Mrs. Short land claim and the Goverment reserve running from the river out to Mr. Bolon, claim. If you do not stop you will loose all of your improvements.

Yours with respect, H. C. MORSE.

1307 (Endorsed.)

I hereby certify that I have served on the within-named person by delivering to him in his hands a true and correct copy of the within notice in Vancouver, W. T., this 15th day of February, 1854.

M. A. TUBB.

Subscribed and sworn to before — this 8th day of July, 1868.
JOSEPH M. FLETCHER,
Register at Vancouver, W. T.

[Endorsed:] Exhibit 76. Interior Department record. Offered by defendants and filed April 17th, 1888. W. Byron Daniels, referee.

1308 DEPARTMENT OF THE INTERIOR, D. T.
GENERAL LAND OFFICE, W. D. S.
WASHINGTON, D. C., *April 7th*, 1888.

I, S. M. Stockslager, Commissioner of the General Land Office do hereby certify that the annexed copy of letter dated June 19th 1872, addressed by the surveyor general of Washington Territory to this office, is a true and literal exemplification of said letter as the original thereof appears on file in this office in the record of the case of St. James mission and others, claimants to land at Vancouver, Washington Territory.

In testimony whereon I have hereunto subscribed my name, and caused the seal of this office to be affixed, at the city of Washington, on the day and year above written.

[SEAL.] S. M. STOCKSLAGER,
Commissioner of the General Land Office.

SURVEYOR GENERAL'S OFFICE,
WASHINGTON TERRITORY, OLYMPIA, *June 19th*, 1872.

Hon. Willis Drummond, Com'r Gen'l Land Office, Washington city, D. C.

1309 SIR: I have the honor to acknowledge the receipt of your letter of instructions of the 9th ultimo, enclosing copy of opinion of Hon. W. H. Smith, together with copy of decision

of the Hon. Secretary of the Interior in the case of the claim of the Roman Catholic mission of St. James at Vancouver, W. T.

Your instructions will receive prompt attention by this office, and be complied with at the earliest practicable day.

Very respectfully, your obt. servant,

L. P. BEACH,
Surveyor General, W. T.

(Endorsed:) Exhibit 77. Interior Department record. Offered by defendants and filed Aptil 17th, 1888. W. Byron Daniels, referee.

DEPARTMENT OF THE INTERIOR,
GENERAL LAND OFFICE, D. T.
W. D. S. WASHINGTON, D. C., *April 7th*, 1888.

I, S. M. Stockslager, Commissioner of the General Land Office, do hereby certify that the annexed copy of letter dated October 18, 1883, addressed to this office, by W. McMicken, surveyor general, is a true and literal exemplification of said letter as the original thereof appears on file in this office in the record of the case
1310 of St. James mission and others, claimants to land at Vancouver, Washington Territory.

In testimony whereof I have hereunto subscribed my name and caused the seal of this office, to be affixed, at the city of Washington, on the day and year above written.

[SEAL.] S. M. STOCKSLAGER,
Commissioner of the General Land Office.

OFFICE OF UNITED STATES SURVEYOR GENERAL,
WASHINGTON TERRITORY, OLYMPIA, *October 18th*, 1883.

To the Honorable Commissioner of the General Land Office, Washington, D. C.

SIR: Referring to your letter of August, 1883, in regard to the approval of the survey of the St. James Catholic mission claim, Vancouver, Wash. Ty., and directing that the parties in interest be notified of your approval of said survey, I have the honor to state that notice of said approval was sent to Rt. Rev. A. Junger, Catholic bishop, Vancouver, Washington Territory, on the 28th of August, 1883, by registered letter, stating in said letter that sixty days' time would be allowed for an appeal.

The receipt of this notice was acknowledged by Rev. A. Junger, which receipt however was lost in the fire of the 12th ultimo.
1311 No notice of appeal has as yet been received by me and there is no dada in this office from which a plat could be made for the register of the local land office at Vancouver, as directed, in case an appeal is not taken.

Very respectfully, W. McMICKEN,
U. S. Surv. Gen'l, Wash. T'y.

(Endorsed:) Exhibit 78. Interior Department record. Offered by defendants and filed April 17th, 1888. W. Byron Daniels, referee.

DEPARTMENT OF THE INTERIOR,
GENERAL LAND OFFICE, D. T. W. D. S.
WASHINGTON, D. C., *April 7th*, 1888.

I, S. M. Stockslager, Commissioner of the General Land Office do hereby certify that the annexed copy of a document being a statement made by Honorable Willis Drummon late Commissioner of this office relative to suspension of action in the matter of the St. James mission claim, to land at Vancouver, Washington Territory, is a true and literal exemplification of said statement as the original thereof appears on file in this office.

In testimony whereof I have hereunto subscribed my name, and caused the seao of this office to be affixed, at the city of Washington, on the day and year above written.

[SEAL.]

S. M. STOCKSLAGER,
Com'r of the Gen'l Land Office.

1312 This is to certify that on or about the 30th of January 1873, the Honorable Columbus Delano, Secretary of the Interior, called me into his office and informed me that General Charles Ewing had applied to him for a suspension of proceedings in certain cases before the Land Office in conflict with the St. James mission claim in Washington Territory, until he could present said mission claim to Congress for confirmation, that as he had decided against the mission claim and could not with his view of the law give the claimants what they seemed to think that they had a right to, he felt inclined to give them an opportunity to present the matter to Congress, provided the rights of other parties should not be injuriously affected thereby, but that he did not feel disposed to direct a suspension of proceedings to the detriment of other parties or claimants having cases before the Land Office and the Department; but in view of the circumstances he would instruct me to proceed with all cases in conflict with the St. James mission claim until I reached a point where they should be ready for patenting and then to inform him and he would hear Mr. Ewing who represented the mission claim and Mr. Gray who represented the claim in conflict therewith and he would then decide what further action should be taken. Ewing and Gray were both present at the time and from the conversation between Secretary Delano and them I understood Mr. Gray to oppose any
1313 suspension of proceedings whatever and particularly any indefinite suspension. Congress was then in session but General Ewing claimed that it was too late for him to reach any definite and conclusive action before it would adjourn and wanted until the adjournment of the next session, which commenced the first Monday in December 1873, this time was not positively granted him by the Secretary but it was understood that he could have it unless before that time expired, I should reach a point where the cases in conflict with the mission claim should be ready for patenting and that in that event I should notify the Secretary and he would instruct me as to what further action should be taken. I was not present at the beginning of the conversation and only heard the

concluding portion of it and the Secretary's announcement of the result which was to the effect that as Ewing wanted him to suspend proceedings until the adjournment of the last session of Congress and Gray protested against the suspension and it was probable that the cases could not be finally disposed of prior to the expiration of the time desired by Mr. Ewing, he would not at that time decide the matter definitely and finally by ordering the suspension but *but* leavt it an open question to be definitely decided on a further hearing provided I should reach a point where the cases in con-
1314 flict with the mission claim should be ready for patenting before the expiration of the time asked for by Mr. Ewing, viz: the end of the last session of Congress.

WILLIS DRUMMOND,
Late Commissioner General Land Office.

(Endorsed:) Exhibit 79. Interior Department record. Offered by defendants and filed April 17th, 1888. W. Byron Daniels, referee.

DEPARTMENT OF THE INTERIOR, D. T.
GENERAL LAND OFFICE, W. D. S.
WASHINGTON, D. C., *April 7th*, 1888.

I, S. M. Stockslager, Commissioner of the General Land Office, do hereby certify that the annexed copy of affidavit of William Ryan, executed October 25th, 1873, before Julius Suiste, notary public W. T., is a true and literal exemplification of said affidavit as the original thereof appears on file in this office in the record of the case of St. James mission and others, claimants to land at Vancouver, Washington Territory.

In testimony whereof I have hereunto subscribed my name, and caused the seal of this office to be affixed, at the city of Washington, on the day and year above written.

[SEAL.] S. M. STOCKSLAGER,
Commissioner of the General Land Office.

1315 *Affidavit of William Ryan, of Vancouver City, Clarke County, Washington Territory.*

I, WILLIAM RYAN, of Vancouver city, Clarke county, W. T., born in Ireland, aged 60 years, a farmer by occupation, a citizen of the United States, being duly sworn, depose and say:

Ques. 1. Was there an old mill at Vancouver prior to 1846? And, if so, indicate its location on the map before you.

Ans. I don't know; I came here only in 1845.

Q. 2. Was there in 1848 a grave-yard belonging to the mission of St. James, in the vicinity of its church? If so, designate it on the map before you.

Ans. There was a cemetery; the location is nearly correct on the map before me.

Q. 3. Was it enclosed; and, if so, about how many acres were enclosed in the grave-yard?

Ans. Yes, it was enclosed about 5 or 6 acres.

— 4th. About how many yards from the church was the graveyard.

Ans. Not more than 100 yards to the corner next of the church.

Ques. 5th. Where did the Indians used to have their camping and grazing grounds when they visited the mission from a distance?

Ans. Before 1848 and 1847 their camping and grazing grounds extended 2 miles up and down from the mission church.

6th. To what distance from the church did they gener-
1316 ally used to extend their camping and grazing grounds?

Ans. About 2 miles up and down, east and west.

7th. Where was the timber cut for the building of the church and priests' house, for the fuel, the fencing, and other uses of the mission?

Ans. I don't know, for the actual church was nearly finished when I came, in the winter of 1845.

8th. Where was divine services held at Vancouver from 1839 to 1846?

Ans. I heard mass in 1846 at the present church.

9th. Where did the priests reside at Vancouver from the beginning of the mission until 1850?

Ans. From 1846 up to 1850 the priest used to occupy a small room in the actual church which was known as the vestry of said church.

10th. Where was the village of the Hudson's Bay Co. servants situated in 1848?

Ans. In front and west of the actual church.

11th. Can you say about how many buildings this *mileage* contained?

Ans. From 75 to 100.

12th. What people occupied them? Were they whites, Indians, or half-breeds?

Ans. Some whites, some half-breeds, Indians, and Kanakas.

13th. In what proportion were these people?

Ans. There were two (2) Indians for one of any other race.

1317 14th. To what Christian denomination did the Indians of the village belong, if to any, and to what church did they used to go?

Ans. Almost all of them were Catholics and went to the Catholic church.

WM. RYAN.

TERRITORY OF WASHINGTON, } *ss:*
County of Clarke, }

I, the undersigned, being duly sworn, depose and say that the answers by me given in the within-propounded questions are true, to the best of my ability, recollection, and knowledge, so help me God.

WM. RYAN.

Subscribed and sworn to before me this 25th day of October, 1873.

In witness whereof I have hereunto set my hand and official seal the day and year as above stated.

[SEAL.] JULIUS SUISTE,
Notary Public, W. T., Vancouver City, Clarke C'ty.

(Endorsed:) Exhibit 80. Interior Department record. Offered by defendants and filed April 17th, 1888. W. Byron Daniels, referee.

1318 D. DEPARTMENT OF THE INTERIOR,
GENERAL LAND OFFICE, W. D. S.
WASHINGTON, D. C., *April 7th*, 1888.

I, S. M. Stockslager, Commissioner of the General Land Office, do hereby certify that the annexed copy of affidavit of Charles Fizete, executed October 25th, 1875, before Julius Suiste, notary public, W. T., is a true and literal exemplification of said affidavit as the original thereof appears on file in this office in the record of the case of St. James mission and others, claimants to land at Vancouver, Washington Territory.

In testimony whereof I have hereunto subscribed my name and caused the seal of this office to be affixed, at the city of Washington, on the day and year above written.

[SEAL.] S. M. STOCKSLAGER,
Commissioner of the General Land Office.

Affidavit of Charles Fizete, of Vancouver City, Clarke County, Washington Territory.

I, CHARLES FIZETE, of Vancouver city, Clarke county, W. T., born in Canada, aged 63 years, farmer and laborer, a citizen of the United States, having resided 43 years in Oregon, but not always residing in Fort Vancouver, being duly sworn, depose and say:

1319 Questions.

1st. Was there in 1848 a grave-yard belonging to the mission of St. James in the vicinity of the church? If so, designate it on the map before you.

Ans. There was a grave-yard. The location of it is correct on the map pointed to me.

2nd. Was it enclosed; and, if so, about how many acres were enclosed in the grave-yard?

Ans. It was enclosed; between 3 or 4, perhaps 5, acres.

3rd. About how many yards from the church was the grave-yard?

Ans. About 200 yards, more or less, from the grave-yard to the front corner of the church.

4th. Where did the Indians used to have their camping and grazing grounds when they visited the mission from a distance?

Ans. They used to camp somewhere between the church and the

Columbia river, and east and west their animals were grazing around the place.

Ques. 5. To what distance from the church did they generally used to extend their camping and grazing grounds?

Ans. About a quarter of a mile S. W. from the actual church.

6th. Where did the priest reside at Vancouver from the beginning of the mission until 1850?

Ans. Before 1848 the priest used to live inside the Hudson's Bay Co. fort, but since that time I cannot tell exactly where, for, as I have said, I was not always living in Vancouver.

1320 7th. Did he occupy a house by himself?

Ans. Before 1848 I remember that the priest was living inside the fort in a room of a house belonging to the said Co.

8th. How far was this house from the building used for church purposes up to 1846?

Ans. The distance was about 250 yards.

9th. Where was the village of the Hudson's Bay Co.'s servants situated in 1848?

Ans. It was in front of the actual church, between the river and said church, extending west to a small lake, distant about ¼ of a mile from the church.

10th. Can you say about how many buildings this village contained?

Ans. About 50, more or less.

11th. What people occupied them; were they whites, Indians, or half-breeds?

Ans. Indians, Scots, Canadians, half-breeds, Kanakas, all mixed together.

12th. In what proportion were these people?

Ans. There was about nine Indians for a white man.

13th. To what Christian denomination did the Indians of this village belong, if to any, and to what church did they use to go?

Ans. Almost all of the Indians were Catholics, and worshipped at the Catholic church.

his
CHARLES x FIZETE.
mark.

1321 TERRITORY OF WASHINGTON, } ss:
County of Clarke, }

I, the undersigned, being duly sworn, depose and say that the answers by me given in the within-propounded questions are true to the best of my ability, recollection, and knowledge, so help me God.

his
CHARLES x FIZETE.
mark.

Subscribed and sworn to before me this the 25th day of October, 1875.

In witness whereof I have hereunto set my hand and official seal the day and year as above stated.

[SEAL.] JULIUS SUISTE,
Notary Public, W. T., Vancouver City, Clarke C'ty.

(Endorsed:) Exhibit 81. Interipr Department record. Offered by defendants and filed April 17th, 1888. W. Byron Daniels, referee.

1322 DEPARTMENT OF THE INTERIOR, D. T.
GENERAL LAND OFFICE, W. D. S.
WASHINGTON, D. C., *April 7th*, 1888.

I, S. M. Stockslager, Commissioner of the General Land Office, do hereby certify that the annexed copy of a paper relating to the claim of the St. James mission, Vancouver, Washington Territory, is a true and literal exemplification from the original on file in this office.

In testimony whereof I have hereunto subscribed my name, and caused the seal of this office to be affixed, at the city of Washington, on the day and year above written.

[SEAL.] S. M. STOCKSLAGER,
Commissioner of the General Land Office.

To the register and receiver, Vancouver, W.

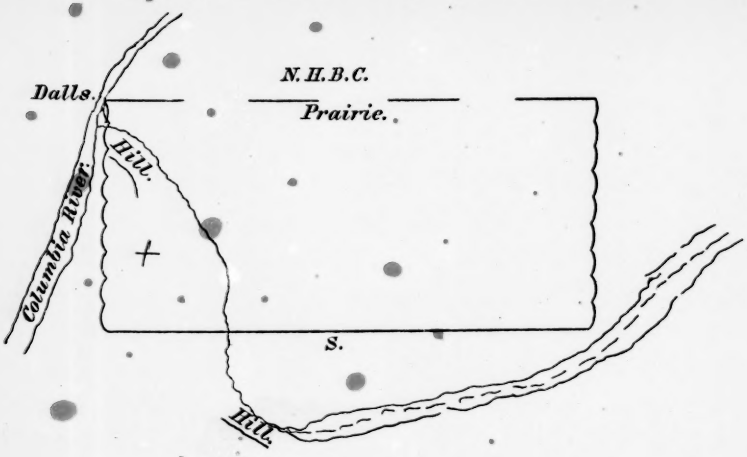
SIRS: In virtue of the proviso contained in the first section of the act of Congress organising Oregon Territory, dated, August 1848, confirming and establishing in the several religious societies, to which missionary stations respectively belong, the title to the land not exceeding 640 acres occupied at the date of said act, as missionary stations, among the Indian tribes in said Territory, together with the improvements thereon, I hereby claim for
1323 and in behalf of the Catholic church, to the use of the Catholic mission, the sections of land, which follow, viz:

St. Paul Mission.

1st. The section of land occupied as missionary station at Colville, known as St. Paul mission, near the falls, commencing at the west, at a few rods from the buildings, on the hill, running east from the N. W. corner forty acres, thence south sixteen acres, thence, running west forty acres; thence to the place of beginning, sixteen acres, containing 640 acres.

The said mission was established among the Indian tribes called Chandieres, in the year of our Lord eighteen hundred and forty-seven, and was continuously attended from that year to the present time.

Sketch of the Section of Land Claimed at Colville.



St. Mary Mission.

2. One section of land at the missionary station in the Flatheads country, known as St. Mary mission. The said mission was established in the year forty-one, and have continued since.

1324 *Sacred Heart Mission.*

3. One section of land at the missionary station, known as Sacred Heart mission, established among the Colur d'Alene Indians, in the year forty-three or forty-four, and continued to the present time.

St. Ignatius Mission.

4. One section of land at the missionary station known as St. Ignatius mission, established among the Kalispels, on the Clark river, in the year forty-four and continuously attended untill fifty-four.

I have the honor to be with consideration, sirs,

Your most humble ob't servant,

A. M. A. BLANCHET,
B'p of Nesqually.

Vancouver, 15 November, 1861.

(Endorsed :) Filed November 20th, 1861.

Notification No. 1½.

One section for St. Paul mission.
" " " St. Mary "
" " " St. Ignatius mission.
" " " Sacred Heart "

1325 (Endorsed:) Exhibit 82. Interior Department record. Offered by defendants and filed April 17th, 1888. W. Byron Daniels, referee.

DEPARTMENT OF THE INTERIOR, D. T.
GENERAL LAND OFFICE,
WASHINGTON, D. C., *April 7th*, 1888.

I, S. M. Stickslager, Commissioner of the General Land Office, do hereby certify that the annexed copy of deposition of William E. Place, sworn to before Edw. F. Brown, notary public, February 27th. 1873, and copy of map attached thereto, are true and literal exemplifications of said deposition and map *of* the original thereof appears on file in this office in the record of the case of St. James mission and other claimants to land at Vancouver, Washington Territory.

In testimony whereof I have hereunto subscribed my name, and caused the seal of this office, to be affixed, at the city of Washington, on the day and year above written.

[SEAL.] S. M. STOCKSLAGER,
Commissioner of the General Land Office.

(Here follows map marked p. 1325½.)

1326 (See map above referred to, hereto attached.)

Ques. 1. What is your name, age, and business?

A. William E. Place; 40 years; soldier.

Q. When and where did you first enlist, and in what regiment?

A. On February 11, 1849, at Dayton, O., for the Mounted Rifles, U. S. Army.

3. Where did you join your regiment?

A. At Jefferson Barracks, Mo., in spring of '49.

4. Where was your regiment ordered in 1849?

A. It was ordered to Oregon Territory.

5. When did you reach Oregon Territory, and where were you stationed?

A. I can't state when we reached the Territory, but we reached Vancouver in October, 1849. The same month we went to Oregon City, where we remained until the spring of 1850, when we returned to Vancouver and built the Columbia barracks.

6. Was your whole reg't at Vancouver in 1850?

A. No; but four companies remained at Vancouver; two went to the Dalles. As we crossed the plains in '49, two of our companies were left at Fort Laramie and two at Fort Hall.

7. After the rifles left Fort Vancouver, when did you return?

A. In the fall of 1855, as a soldier of the 3rd artillery. Left again in the spring of 1856, and again returned *returned* in the fall of 1858 and remained about two years, when my company was ordered to San Francisco.

1327 Ques. 8. Do you remember distinctly the location of the barracks and other buildings at Vancouver when you were last there?

A. I do; and the accompanying map, marked Exhibit "W," gives the location of the barracks and other buildings, as I remember their location.

9. Did you make this map entirely from memory, or were you assisted by other maps or seggestions from any one?

A. I made it from memory. I have had no suggestions, and never saw a map of Vancouver.

10. Was there any mission church at Vancouver when you first reached there in 1849, and was it in existence when you left there for San Francisco?

A. There was a Catholic church there when I reached Vancouver, and it was there when I left—on the same ground.

11. Was there a mill at Vancouver when you first reached there, and where was it situated?

A. There was; and it was situated as indicated on my map marked Exhibit "W."

Ques. 12. How far was it from the old mill to the Catholic church?

A. About ¾ of a mile.

13. What kind of a mill was this you speak of, and when was it destroyed?

A. Don't know what kind; it was not a water-mill. It was in ruins when I first saw it; it was destroyed some time in 1850.

14. Was there a grave-yard in Vancouver when you first reached there?

1328 A. Yes.

15. Where was it located, what was its area, and was it enclosed?

A. It was located as indicated on my map marked Exhibit "W." Its area was about 5 acres. It was fenced.

16. Who had charge of it?

A. The Catholic mission.

17. Did you ever receive a permit of burial to this grave-yard from any one; and, if so, from whom?

A. Yes; from the Catholic bishop of this mission in 1851.

18. Were any burials made there without his permission to your knowledge?

A. There were not.

Ques. 19. About how far from the Catholic church was this burial ground?

A. About 100 yards.

20. Where was the village of the Hudson Bay Co.'s servants situated in 1849?

A. South, southeast, and southwest of the Catholic church and extending to the river.

21. Can you say about how many buildings this village contained?

A. I can't tell, but about a hundred, I suppose.

22. What people occupied them? Were they whites, Indians, or half-breeds?

A. People in the service of the Hudson Bay Co.—whites, Indians, half-breeds, and Kanakers.

1329 23. In what proportion were these people?

A. Two-thirds of all were Indians and half-breeds; one-third of the balance were whites, the remainder were Kanakas.

24. What became of this village?

A. After the Hudson Bay Company evacuated the place it was torn down under military orders.

25. Were there or not when you came in 1849 any buildings intended as school buildings and where were they located?

A. There was a double building located near what is the "bake-house" on my map marked Exhibit "W." That was intended for school purposes, to the best of my knowledge.

26. Do you recollect having seen in 1849 any buildings west of the Catholic church and immediately adjoining it?

A. Yes; there were two; one occupied by the Catholic priest, and the other by Brevet Major Buff of the mounted rifles.

27. Was there any enclosure about them?

A. Yes; there was an enclosure—a garden.

28. Were the buildings old or new when you first saw them?

A. I think they had been built some time.

29. About how far was the Hudson Bay fort from the Catholic church?

A. About 450 yards.

30. In what state of preservation was the fort when you first saw it?

A. In a good state.

31. In what condition was it when you left for San Francisco?

1330 A. It was in a dilapidated condition.

32. Were there any buildings standing, what were they, and what was their condition?

A. There were; the governor and Clark's quarters; they were in good condition; the store was partly torn down.

33. Do you know what was called the "fort claim" in 1849?

A. I do not.

34. Were there fences and cultivation around the Hudson Bay fort in 1849?

A. Yes; on the east and west. On the west was an orchard, on the east were fields and gardens.

35. Were they still cultivated in 1858?

A. Yes; some by the troops on the west.

WILLIAM E. PLACE.

DISTRICT OF COLUMBIA, *County of Washington*, } *ss:*

On this 27th day of February, A. D. 1873, before me, a notary public in and for the county aforesaid, personally appeared the above-named William E. Place, and made oath according to law that the foregoing answers given by him are correct and true, and the map hereunto annexed is the map referred to in said answers.

In testimony whereof I hereunto set my hand and affix my notarial seal the day and year aforesaid.

EDW. F. BROWN, [SEAL.]
Notary Public.

1331 (Endorsed:) Exhibit 83. Interior Department record. Offered by defendants and filed April 17th, 1888. W. Byron Daniels.

DEPARTMENT OF THE INTERIOR, D. T.
GENERAL LAND OFFICE,
WASHINGTON D. C., *April 7th*, 1888.

I, S. M. Stockslager, Commissioner of the General Land Office, do hereby certify that the annexed document addressed to August A. Schabien, Jan'y 30, 1873, by Britton & Gray, and copy affidavit of Horace J. Gray, executed before John W. Pilling, notary public, Sept. 3, 1774, are true and literal exemplifications of said document and affidavit, as the originals thereof appear on file in this office in the record of the case of the St. James mission and other claimants to land at Vancouver, Washington Territory.

In testimony whereof I have hereunto subscribed my name and caused the seal of this office to be affixed, at the city of Washington, on the day and year above written.

[SEAL.] S. M. STOCKSLAGER,
Commissioner of the Gen'l Land Office.

1332 WASHINGTON, D. C., *Jan'y 30th*, 1873.

August A. Shabien, Esq., clerk of council, Vancouver, W. T'y.

DEAR SIR:—

* * * * * * *

Although the mission claimants have formally withdrawn their protest against the survey from the department, yet, they have by no means abandoned the contest. They now propose to ask Congress to pass a law to give them the 640 acres which they originally claimed. To enable them to prosecute the matter in Congress, they at first asked the Commissioner of the General Land Office to suspend all proceedings in reference to the townsite claim until they had got their bill passed. This the Commissioner positively refused to do, and they then made the same application to the Secretary of the Interior.

We fortunately learned of their proposed action, and we this morning met Bishop Bronillett, and his attorney, Gen'l Ewing, before the Secretary. The Commissioner of the Land Office was sent for by the Secretary, and we had a full discussion upon their application. The result was that the Secretary refused to make the order they asked for, but he directed the Commissioner to go on with our case, and to proceed up to the point where he was ready to issue our patent, then to stop and notify Gen'l Ewing that the patent was ready to be issued. If the mission claimants are then
1333 still opposed to the issue of the patent, the Secretary is to hear both sides and determine whether he will continue the

suspension, or whether he will direct the patent to be issued. We objected to any such arrangement being made to extend to an indeffinite period in the future, and it was therefore limited to the next session of Congress. Should the mission claimants therefore fail to secure the passage of their proposed bill at the next session of Congress, the arrangement will terminate, and we will be then entitled to take out our patent if we have succeeded by that time in pringing our case to a point where we can ask issue of same.

This arrangement was not entirely satisfactory to us, but it was the best we could make, as the Secretary seemed inclined to give the mission a chance to go before Congress before finally passing the title to the land.

It enables us to go on and clear up all preliminary questions and bring our case to the point where we will be entitled to issue of patent. To that extent, this is a step in advance, and if we can get to that point we shall not sedpair of being able to show the Secretary that he should issue our patent without regard to the proceedings of the mission people. At most, it can only delay us until the close of the next session of Congress, and if they have not by that time secured the passage of their proposed bill, we can then proceed with-
1334 out regard to them. The Commissioner promises us that he will very soon render his decision upon the points raised by us as shown in the enclosed argument.

* * * * * * *

Very respectfully your ob't servants,

BRITTON & GRAY.

DISTRICT OF COLUMBIA, }
City and County of Washington, } ss:

I, Horace J. Gray, being duly sworn, do depose and say that on the 30th of January, 1873, I was and still am a member of the firm of Britton & Gray, now Britton, Gray & Drummond, attorneyss; that the foregoing is a true, full, and correct extract from a letter written by me on the said 30th of January, 1873, addressed to August A. Shabien, clerk of the common council of the city of Vancouver, Wash. Ty., and that the same correctly states the result of an interview had by me on the morning of that day with the Hon. Secretary of the Interior, Commissioner of the General Land Office, Bishop Bronilett, and General Charles Ewing. I further depose and say that the said foregoing extract is a true copy of all that portion of the said letter which refers to the said interview and the result thereof.

[L. S.] HORACE J. GRAY.

Subscribed and sworn to before me this 3rd day of September, A. D. 1874.

JOHN W. PILLING,
Notary Public.

1335 (Endorsed:) Exhibit 84. Interior Department record. Offered by defendants and filed April 17th, 1888. W. Byron Daniels, referee.

DEPARTMENT OF THE INTERIOR, D. T.
GENERAL LAND OFFICE, W. D. S.
WASHINGTON, D. C., *April 7th*, 1888.

I, S. M. Stockslager, Commissioner of the General Land Office, do hereby certify that the annexed copies of papers dated, respectively, October 20, October 23rd, October 31st, and November 5, 1883, are true and literal exemplifications of said papers as the originals thereof appear on file in this office in the record of the case of St. James mission and other claimants to land at Vancouver, Washington Territory.

In testimony whereof, I have hereunto subscribed my name, and caused the seal of this office to be affixed, at the city of Washington, on the day and year above written.

S. M. STOCKSLAGER,
[SEAL.] *Commissioner of the General Land Office.*

1336 Copy.

THE BISHOP'S HOUSE,
VANCOUVER, W. T., *October* 20, 1883.

W. McMicken, U. S. surveyor general, Olympia, Washington Territory.

DEAR SIR: The notice issued through your office dated August 28th. ult., by the Commissioner of the General Land Office, in which he decides in the matter of the Roman Catholic Mission of St. James, Vancouver, Washington Territory, for six hundred and forty acres of land asserted under the act of Congress of August 14, 1848, that "upon the whole record in the case etc., only about a half of an acre is the final and official survey of the grant in question," has been received.

I protest against this decision as my venerable predecessor, A. M. A. Blanchet did when the same decision was given by the Secretary of the Interior, on the 29th. of January, 1872, and the Roman Catholic Mission of St. James, Vancouver, Washington Territory, claims a full and just right to the six hundred and forty, acres, of land under the act of Congress of August 14, 1848, which claim I am willing and ready to prove as soon as the Secretary of the Interior or the courts of the United States will allow me to do so.

(Signed) AEGIDIUS JUNGER,
Bishop of Nesqually.

1337 OFFICE OF UNITED STATES SURVEYOR GENERAL,
WASHINGTON TERRITORY, OLYMPIA, *October 23rd*, 1883.

Rt. Rev. Aegidius Junger, bishop of Nesqually, Vancouver, Washington Territory:

SIR: I am in receipt of your letter of the 20th. inst., protesting against the decision of the Honorable Commissioner of the General Land Office of August 4, 1883, approving the survey of the claim of the Roman Catholic Mission of St. James, Vancouver, Washington Territory, made pursuant to the decision of the honorable acting Secretary of the Interior, of March 11th, 1872.

In connection with the final adjustment of this claim, I have to inform you that all the records and files of the surveyor general's office, of Washington Territory, were on the 12th. day of September 1883, completely destroyed by fire, and respectfully request that you inform me as soon as practicable, whether you had prior to said fire filed in the surveyor general's office of Washington Territory, any papers with a view to perfect an appeal from the aforesaid decision.

Very respectfully,

(Signed) W. McMICKEN,
U. S. Surv. Gen'l, Wash. T'y.

1338 Copy.

VANCOUVER, W. T., *October* 31*st*, 1883.

W. McMicken, surv. genl., Olympia, W. T.

DEAR SIR: I received your favor of the 23rd instant, by which you acknowledge the receipt of my protest against the decision of Honorable Commissioner of the General Land Office, of August 4th, 1883.

Prior to the protest which I forwarded to you on the 20th inst., I have not sent any other letter to that effect.

Your devoted servant,

(Signed) AEGIDIUS JUNGER,
Bishop of Nesqually.

Copy.

OFFICE OF UNITED STATES SURVEYOR GENERAL,
WASHINGTON TERRITORY, OLYMPIA, *November 5th*, 1888.

To the Honorable Commissioner of the General Land Office, Washington, D. C.

SIR: Referring to your letter of October 14th. 1883, initial "D," in the matter of the survey made pursuant to the decision of the honorable acting Secretary of the Interior of March 11th. 1872, of the Catholic mission claim, of St. James, at Vancouver, Washington Territory, and directing that the interested parties be
1339 notified that the record and files of the surveyor general's office of Washington Territory were destroyed by fire, and requesting said parties to inform me whether they had prior to said fire filed in this office any papers with a view to perfect an appeal from the aforesaid decision. I have the honor to state that said parties were notified as directed as per copy of my letter to Bishop Junger, Vancouver, W. T., of October 23rd. 1883, enclosed herewith.

I also inclose copy of Bishop Junger's reply to said letter stating that prior to said protest against the decision of the Honorable Commissioner of the General Land Office of August 4th. 1883, forwarded to this office the 20th. of October 1883, he had not sent any other letter to that effect, a copy of said protest is also inclosed herewith.

Very respectfully,

(Signed) W. McMICKEN,
U. S. Surv. Gen'l, Wash. T'y.

(Endorsed:) Exhibit 85. Interior Department record. Offered by defendants and filed April 17th, 1888. W. Byron Daniels, referee.

1340 DEPARTMENT OF THE INTERIOR, D. T.
GENERAL LAND OFFICE, W. D. S.
WASHINGTON, D. C., *April 7th*, 1888.

I, S. M. Stockslager, Commissioner of the General Land Office, do hereby certify that the annexed copy of affidavit of J. B. A. Bronillet, executed before N. Callan, notary public, March 2, 1882, is a true and literal exemplification of said affidavit, as the original thereof appears on file in this office in the record of the case of St. James mission and other claimants to land at Vancouver, Washington Territory.

In testimony whereof, I have hereunto subscribed my name, and caused the seal of this office to be affixed, at the city of Washington, on the day and year above written.

[SEAL.] S. M. STOCKSLAGER,
Commissioner of the General Land Office.

1341 J. B. A. Bronillet, a citizen of the United States and a resident of Washington, D. C., being personally well known to me, and being first duly sworn, deposes and says:

In March, 1848, I, as a missionary, first visited the mission of St. James, adjoining the Hudson's Bay Company trading post of Vancouver, on the Columbia river, on the then Territory of Oregon, and remained for several days with the Rev. Father Delevan, who was in charge of the mission. I then observed and became familiar with the following facts, which I now recall with perfect distinctness:

The mission church (a frame building about 35 by 60 feet) where divine worship was then, has ever since been, and is now held, about 1,000 feet west from the stockade of the Hudson's Bay Company, was located where it now stands, and was then and has ever since been in the sole legal possession of the chief representative of the mission.

Adjoining this church was a frame building, 20 by 30 feet, which was the property of the mission.

At a distance of about 400 feet from the church, in a northeasterly direction, was the mission grave-yard, covering some two or three acres of ground and extending some two acres northeasterly. The grave-yard was enclosed with a worm fence and well filled with dead bodies.

South of the church, at about an equal distance between the church and the river, was the mission school house, which
1342 had been purchased by the church about six years previous to my first visit, and in which the priest used to teach the Indians. I and my traveling companions were directed to the clergyman to deposit our baggage there, and our hands were accom-odated in the same building during our stay.

Southwest and south of the church, adjoining the church and extending to the river, was the Indian village, where from 30 to 40

families constantly resided, and where at some periods of the year over 100 families would gather. These, as long as they stayed, and the residents were in charge and under the constant guidance and instruction of the priest, either at church, at the school-house, or at their houses. These Indians were largely engaged in farm and dairy work and the tending of cattle and horses. They were for the most part farmers and herders, and were trained to that work at Vancouver.

They had themselves a large number of horses, hardly any family having less than fifteen, most of them having from 30 to 50 and some several hundred heads each.

These horses were grazing through the woods around the village and mission and on the prairies for several miles each side east and west of the said village and mission.

So that for the Indians living at the station, and for those occasionally attending at it for missionary and other purposes,
1343 the mission needed and truly occupied not one mile square, but several miles square at and around the station for the maintenance of their stock.

Standing from the spot where the Government wharf now is, for the distance of over two miles east along the Columbia river the land either was prairie land or had been cleared for half a mile back of the river to where the garrison is now located.

I do not know that the mission claimed any definite extent of land by metes and bounds previous to 1848, but presume not, as the law granting lands to missions in Washington Territory was not passed until that year, and the mission could then have had only a natural and equitable title, but I do know that in the year 1848 the mission—by which I mean the church, school-house, missionary and his residence, the grave-yard and the Indians under the religious care of the missionary and present at Vancouver chiefly on account of the presence of the missionary—occupied much more than 640 acres of ground.

I can further state that the mission was fully advised of the grant made to Indian missions by the act of 1848 long before it was possible for any citizen of the United States to obtain any title to lands within the district covered by the possessory rights of the Hudson's Bay Company, and that before these possessory rights became
1344 extinct the proper representative of the mission gave public notice *to* the mission's claim and defined its boundaries substantially as they are now set forth in the survey made by the surveyor general of Oregon. This was in 1853, when the Hudson's Bay Company's rights still existed, and also before the date pointed out by the instructions of the General Land Office as the proper date for such a notice.

In giving notice of the claim the mission conformed to the directions of the General Land Office and took it in a square form of one mile on every side, starting from the Columbia river, and having the improvements as near as possible in the center.

I was then in charge of the Mission of St. James.

There was no garrison at Vancouver nor any troops in Oregon

in 1848. The first troops arrived in Oregon in 1849, and a few companies settled at Vancouver for the first time in the fall of 1849.

J. B. A. BROUILLET.

Subscribed and sworn to before me this 2nd day of March, A. D. 1882.

[SEAL.] N. CALLAN,
Notary Public.

(Endorsed:) Exhibit 86. Interior Department record. Offered by defendants and filed April 17th, 1888. W. Byron Daniels, referee.

1345 DEPARTMENT OF THE INTERIOR, D. T.
GENERAL LAND OFFICE, W. D. S.
WASHINGTON, D. C., *April 7th*, 1888.

I, S. M. Stockslager, Commissioner of the General Land Office, do hereby certify that the annexed copy of paper, dated January 9th, 1886, being schedule of papers reported by the surveyor general as being on file in his office at Olympia, Washington, Territory, is a true and literal exemplification of said paper or schedule as the original thereof appears on file in this office in the record of the case of St. James mission and other claimants to land at Vancouver, Washington Territory.

In testimony whereof, I have hereunto subscribed my name, and caused the seal of this office to be affixed, at the city of Washington, on the day and year above written.

[SEAL.] S. M. STOCKSLAGER,
Commissioner of the General Land Office.

1346 DEPARTMENT OF THE INTERIOR, D. T.
GENERAL LAND OFFICE, W. D. S.
WASHINGTON, D. C., *April 7th*, 1888.

I, S. M. Stockslager, Commissioner of the General Land Office, do hereby certify that the annexed copy of letter dated January 9th, 1886, addressed to this office by the U. S. surveyor general of Washington Territory, is a true and literal exemplification of said letter as the original thereof appears on file in this office, in the record of the case of St. James mission and other claimants to land at Vancouver, Washington Territory.

In testimony whereof I have hereunto subscribed my name, and caused the seal of this office to be affixed, at the city of Washington on the day and year above written.

[SEAL.] S. M. STOCKSLAGER,
Commissioner of the General Land Office.

OFFICE OF UNITED STATES SURVEYOR GENERAL,
WASHINGTON TERRITORY, OLYMPIA, *January 9th*, 1886.

To the Honorable Commissioner of the General Land Office, Washington, D. C.:

SIR: Referring to your letter "D" dated December 24th, 1885,

requesting a report of what action has been taken by this office,
under the ruling of your office of August 4th, 1883, in the
1347 matter of the claim of the St. James (Roman Catholic)
mission, to lands at Vancouver, Washington Territory, I have the honor to state that upon receipt of your letter of August 4th, 1883, approving the survey of the "Catholic mission claim of St. James," at Vancouver, executed July 10th, 1872, by Levi Farnsworth, U. S. deputy surveyor, the Rt. Rev. A. Junger, bishop of Nesqually, residing at Vancouver, was notified by registered letter from this office dated August 28th, 1883, of your approval of said survey. The receipt of this letter was acknowledged by Rev. A. Junger, which receipt however, was lost in the fire of September 12th, 1883.

This action by me was also reported to you, as per copy of my letter to you of October 18th, 1883, inclosed herewith.

On the 23rd. day of October, 1883, I received from "Aegidius Junger, bishop of Nesqually," his letter of protest against the decision of August 4th, 1883, a copy of which protest is inclosed herewith.

In compliance with request in your letter "D" of October 14th, 1883, Bishop Junger was notified by letter from this office of October 23rd, 1883, (copy inclosed) that all the records and files of the surveyor general's office of Washington Territory, were on the 12th day of September, 1883, completely destroyed by fire, and requesting him to inform me as soon as practicable, whether he had prior to
said fire filed in the surveyor general's office of Washington
1348 Territory, any papers with a view to perfect an appeal from
the approval of survey made pursuant to the decision of the honorable acting Secretary of the Interior of March 11, 1872. This reply dated October 31st, 1883, received November 2, 1883, states that prior to his protest against the decision of the Hon. Commissioner of the General Land Office of August 4th, 1883, forwarded to this office the 20th October, 1883, he had not sent any other letters to that effect. Copy of the bishop's reply, and copy of my letter to you, dated November 5th, 1883, reporting my action in the matter, is inclosed herewith. No further action by this office has been taken in this matter, nor any papers received by me from any source, since my letter to you of November 5th, 1883, except as hereinbefore mentioned. While not being called upon by your letter of Dec. 24th, 1885, to give any opinion in this case, yet I beg leave to state, that the records of this office do not show what proof Surveyor General Beach had of the exact area occupied by the St. James mission at Vancouver on the 14th of August, 1848, neither can I find from the above-named records, any evidence of the occupied area by the mission, which seems to have guided the Ass't Secretary of the Interior in making up his decision of March 11th, 1872. As shown by the map of survey of Deputy Levi Farnsworth, a much larger
area was occupied by other buildings, than the church, con-
1349 vent, kitchen and water works when the survey was made on
the 10th day of July, 1872.

Very respectfully,

W. McMICKEN,
U. S. Surv. Gen'l, Wash. T'y.

(Endorsed:) Exhibit 88. Interior Department record. Offered by defendants and filed April 17th, 1888. W. Byron Daniels, referee.

DEPARTMENT OF THE INTERIOR, D. T.
GENERAL LAND OFFICE, W. D. S.
WASHINGTON, D. C., *April 7th*, 1888.

I, S. M. Stockslager, Commissioner of the General Land Office, do hereby certify that the annexed copy of a copy of a letter dated October 18, 1883, addressed to the office of the surveyor general of Washington Territory, W. McMicken, is a true and literal exemplification of said copy of letter as the original thereof appears on file in this office in the record of the case of St. James mission and others claimants to land at Vancouver, Washington Territory.

In testimony whereof, I have hereunto subscribed my name, and caused the seal of this office to be affixed, at the city of Washington, on the day and year above written.

[SEAL.] S. M. STOCKSLAGER,
Commissioner of the General Land Office.

1350 (Copy.)

OFFICE OF UNITED STATES ATTORNEY GENERAL,
WASHINGTON TERRITORY,
OLYMPIA, *October 18th*, 1883.

To the honorable Commissioner of the General Land Office, Washington, D. C.

SIR: Referring to your letter of August 1883, in regard to the approval of the survey of the St. James Catholic mission claim—Vancouver Washington Territory, and directing that the parties in interest be notified of your approval of said survey, I have the honor to state that notice of said approval was sent to Rt. Rev. A. Junger, Catholic bishop of Vancouver, Washington Territory, on the 28th of August, 1883, by registered letter stating in said letter that sixty days time would be allowed for an appeal.

The receipt of this notice was acknowledged by Rev. A. Junger, which receipt however, was lost in the fire of the 12th ultimo.

No notice of appeal has as yet been received by me, and there is no data in the office from which a plat could be made for the register of the local land office at Vancouver, as directed, in case an appeal is not taken.

Very respectfully,
(Signed) W. McMICKEN,
U. S. Sur. Genl. Washington Ty.

(Endorsed:) Exhibit 89. Interior Department record. Offered by defendants and filed April 17th, 1888. W. Byron Daniels, referee.

1351 DEPARTMENT OF THE INTERIOR, D. T.
GENERAL LAND OFFICE, W. D. S.
WASHINGTON, D. C., *April 7th*, 1888.

I, S. M. Stockslager, Commissioner of the General Land Office, do hereby certify that the annexed copy of document certified by Wm. W. Belknap, Secretary of War, September 13, 1873, is a true and literal exemplification of said document and the certificate attached thereto, as the originals thereof appear on file in this office in the record of the case of St. James mission and other claimants to land at Vancouver, Washington Territory.

In testimony whereof, I have hereunto subscribed my name, and caused the seal of this office to be affixed, at the city of Washington, on the day and year above written.

[SEAL.] S. M. STOCKSLAGER,
Commissioner of the General Land Office.

UNITED STATES OF AMERICA,
WAR DEPARTMENT,
WASHINGTON CITY, *September 13th*, 1873.

Pursuant to the act of Congress, of the 22nd February, 1849, I, Wm. W. Belknap, Secretary of War, do hereby certify that the annexed is a true copy of the original on file in this department.

In witness whereof, I have hereunto set my hand and caused the seal of the War Department to be affixed, on the day and year first above written.

[SEAL.] WM. W. BELKNAP,
Secretary of War.

1352 FORT SMITH, ARKANSAS, *August 4th*, 1873.

In reply to your endorsement of the 21st. of July, 1873, I have the honor to inform the War Department, that in 1851, I led the 4 Regiment of Infantry from New York city to California and that the regimental headquarters were established at Fort Vancouver, Oregon, and in the first few days after our arrival, the Rt. Rev. Blanchet, bishop of Nesqually, told me repeatedly that he claimed the full grant of the act of Congress granting the mission a certain tract of land for his mission and church whether the statement was made on an official paper or not, I at present do not recollect, but am positive that even while we were there he was making efforts to secure the grant as made by Congress; months or even years after arrival I was directed to lay off a reservation of 640 acres around the post, This I did myself with compass and made report, with the map containing even the smallest most minute hut on the ground reserved. The church mission and the Hudson Bay factories were all included.

This was long after the bishop of Nesqually had informed me of his claim for his mission church, Of course after so many years my memory may be at fault, as to the date that the regimental headquarters reached Vancouver.

There can however, be no mistake about my surveying a reserva-

tion at Fort Vancouver long after Bishop Blanchet had in-
1353 formed me of his claim, and which he was constantly urging with such earnestness.

With permission of the authorities, I would respectfully add, that Lieut. Grant, bat. captain, was the regimental quartermaster at the time, and was stationed at Fort Vancouver.

Respectfully submitted

(Sgd.) B. L. E. BONNEVILLE,
Colonel U. S. A. Retired.

To the adjutant general of the army.

(Endorsed:) Exhibit 90. Interior Department record. Offered by defendants and filed April 17th, 1888. W. Byron Daniels, referee.

DEPARTMENT OF THE INTERIOR, D. T.
GENERAL LAND OFFICE, W. D. S.
WASHINGTON, D. C., *April 7th*, 1888.

I, S. M. Stockslager, Commissioner of the General Land Office, do hereby certify that the annexed copy of letter dated July 7, 1873, addressed by this office to the U. S. surveyor general, Olympia, Washington Territory, is a true and literal exemplification of said letter as the same appears of record in this office.

In testimony whereof, I have hereunto subscribed my name and caused the seal of this office to be affixed, at the city of Washington, on the day and year above written.

[SEAL.] S. M. STOCKSLAGER,
Commissioner of the General Land Office.

1354 DEPARTMENT OF THE INTERIOR,
GENERAL LAND OFFICE,
WASHINGTON, D. C., *July 7th*, 1873.

U. S. sur. general, Olympia, W. T.

SIR: Referring to the report of the 18th ultimo, made by T. M. Reed, Esq., chief clerk of your office in response to my letter of 19th of May last, relative to the survey of the claim of the Roman Catholic mission of St. James at Vancouver, W. T., I have to state that said report was premature inasmuch as it was made fifteen days prior to the expiration of the thirty days allowed the parties interested, within which to file their objections to the approval of the survey in question.

I therefore have now to request that you will submit a new report together with any papers that may have been filed in your office prior to the expiration of the thirty days from the date of your notice.

I, also, have to request that you will forward the original papers and retain copies for the files of your office.

Very respectfully, WILLIS DRUMMOND,
Commissioner.

(Endorsed:) Exhibit 91. Interior Department records. Offered by defendants and filed April 17th, 1888. W. Byron Daniels, referee.

1355 DEPARTMENT OF THE INTERIOR, D. T.
GENERAL LAND OFFICE, W. D. S.
WASHINGTON D. C., *April 7th*, 1888.

I, S. M. Stockslager, Commissioner of the General Land Office, do hereby certify that the annexed copy of letter, date July 28th, 1883, addressed by Curtis & Burdett to this office, is a true and literal exemplification of said letter, as the original thereof appears on file in this office in the record of the case of St. James mission and other claimants to land at Vancouver, Washington Territory.

In testimony whereof I have hereunto subscribed my name, and caused the seal of this office to be affixed, at the city of Washington, on the day and year above written.

[SEAL.] S. M. STOCKSLAGER,
Commissioner of the General Land Office.

W. W. Curtis,
Late chief clerk,
General Land Office.

S. S. Burdett,
Attorney-at-law,
Late Comm'r Gen. Land Office.

Curtis & Burdett, attorneys in land cases and solicitors of claims; office, No. 925 F street N. W.

P. O. Box 396.

WASHINGTON D. C., *July 28th*, 1883.

Hon. N. C. McFarland, Commissioner of the General Land Office.

SIR: In the matter of the claim of the Roman Catholic
1356 Mission of St. James at Vancouver, Washington Territory, for six hundred and forty acres of land, asserted under the act of Congress of August 14, 1848 (9 Stat., p. 328), we enclose herewith an application in that behalf, and ask that it may receive attention.

We also enclose affidavits of Rev. J. B. A. Bronillet, Joseph Petrain; deposition of Archbishop Blanchet; affidavits of Charles Fizest, William Ryan, William Place, and certified copy of an official letter of Col. B. L. E. Bonneville, referred to in said application.

Very respectfully, CURTIS & BURDETT.

(Endorsed:) Exhibit 92. Interior Department record. Offered by defendants and filed April 17th, 1888. W. Byron Daniels, referee.

1357 DEPARTMENT OF THE INTERIOR, D. T.
GENERAL LAND OFFICE, W. D. S.
WASHINGTON, D. C., *April 7th*, 1888.

I, S. M. Stockslager, Commissioner of the General Land Office, do hereby certify that the annexed copy of a letter dated February 23rd, 1864, addressed by this office to the honorable Secretary of the Interior, is a true and literal exemplification of said letter as the same appears of record in this office.

In testimony whereof, I have hereunto subscribed my name, and caused the seal of this office to be affixed, at the city of Washington, on the day and year above written.

[SEAL.] S. M. STOCKSLAGER,
Commissioner of the General Land Office.

1358 GENERAL LAND OFFICE, *February 23rd*, 1864.

Honorable J. P. Usher, Secretary of the Interior.

SIR: *I* This office in the case of the claim of the Catholic Mission of St. James at Vancouver, Washington Territory, which was laid before you in a report of 10th of November, 1862, for revision and final determination, called on the surveyor general on 13th April, 1863, by telegraph in compliance with your instructions of 9th April, 1863, for certified transcripts of all the official papers, the copies first sent supposed to have been lost in the Golden Gate.

Pursuant to said call, certified transcripts were received at this office, and thereafter the undersigned rendered his decision under date October 16th, 1863, (copy herewith) against the aforesaid mission claim.

From that decision W. H. Farrar, Esqr., by letter dated 16th inst., herewith asks an appeal and accordingly the matter is now submitted for the final decision of the appellate authority.

With great respect, your ob't serv't,

J. M. EDMUNSD,
Commissioner.

(Endorsed:) Exhibit 93. Interior Department record. Offered by defendants and filed April 17th, 1888. W. Byron Daniels, referee.

1359 DEPARTMENT OF THE INTERIOR, D. T.
GENERAL LAND OFFICE, W. D. S.
WASHINGTON D. C., *April 7th*, 1888.

I, S. M. Stockslager, Commissioner of the General Land Office, do hereby certify that the annexed copy of a letter dated May 9th. 1872, addressed by this office to the U. S. surveyor general, Olympia, W. T., is a trie and l-teral exemplification of said letter as the same appears of record in this office.

In testimony whereof, I have hereunto subscribed my name and caused the seal of this office to be affixed, at the city of Washington, on the day and year above written.

[SEAL.] S. M. STOCKSLAGER,
Commissioner of the General Land Office.

(Letter above referred to is found in vol. 3.)

1360 DEPARTMENT OF THE INTERIOR, D. T.
GENERAL LAND OFFICE, W. D. S.
WASHINGTON, D. C, *April 7th*, 1888.

I, S. M. Stockslager, Commissioner of the General Land Office, do hereby certify that the annexed copy of a letter dated January 31st.

1874, addressed to this office by J. C. Hileman, register, is a true and literal exemplification of said letter as the original thereof appears on file in this office.

In testimony whereof I have hereunto subscribed my name, and caused the seal of this office to be affixed, at the city of Washington, on the day and year above written.

[SEAL.] S. M. STOCKSLAGER,
Commissioner of the General Land Office.

U. S. LAND OFFICE,
WASHINGTON, D. C., *January 31st*, 1874.

SIR: Referring to your letter "G" of the 2nd. of December, last, directing us to notify the parties in interest in the matter of The Town Site of Vancouver *vs.* The County of Clarke, and inform them that thirty days from the date your notice would be allowed them in which to file arguments for submission to the appellate authority, &c., in reply I have the honor to inform you that thirty days
1361 have elapsed since the date of our notice to said parties, and no papers or arguments have been filed in this office relative to the case above indicated for transmission to you.

Very respectfully, your ob't servant,
J. C. HILEMAN, *Register.*

Hon. Commissioner General Land Office, Washington, D. C.

(Endorsed:) Exhibit 95. Interior Department record. Offered by defendants and filed April 17th, 1888. W. Byron Daniels, referee.

DEPARTMENT OF THE INTERIOR, D. T.
GENERAL LAND OFFICE, W. D. S.
WASHINGTON, D. C., *April 7th*, 1888.

I, S. M. Stockslager, Commissioner of the General Land Office, do hereby certify that the annexed copy of a letter dated July 26th, 1883, addressed to this office by Curtis and Burdett, is a true and literal exemplification of said letter as the original thereof appears on file in this office in the records of the case of St. James — and other claimants to land at Vancouver, Washington Territory.

1362 In testimony whereof, I have hereunto subscribed my name, and caused the seal of this office to be affixed, at the city of Washington, on the day and year above written.

[SEAL.] S. M. STOCKSLAGER,
Commissioner of the General Land Office.

WASHINGTON, D. C., *July 26th*, 1883.

Hon. N. C. McFarland, Commissioner of the General Land Office.

SIR: We ask your attention to the matter of the claim of the Roman Catholic Mission of St. James at Vancouver, Washington Territory, for six hundred and forty acres of land asserted under the act of Congress of August 14th, 1848 (9 Stats., p. 328).

The *rp*oceedings heretofore had are evidenced by the ample record contained in your office.

In brief they are:

That there was a hearing of the matter before the surveyor general of Washington Territory, under instructions of the Commissioner of the General Land Office, and a report and decision by him in all things favorable to the mission claim and a survey of the said grant (640 acres) duly made and laid down upon the official township plat of survey.

1363 That there was a decision by the Commissioner of the General Land Office against the claim of the mission, from which there was appeal to the honorable the Secretary of the Interior, who. upon consideration of the record before him, on the 11th day of March, 1872, held that the right of the mission to claim and take under the act had been satisfactorialy established, but adopted it as a principle of construction applicable to all cases under the act that "only the land actually occupied as a mission, and which was with clearness set forth by specific boundaries, together with all improvements thereon, the amount in no case to exceed six hundred and forty acres," could be set off for the mission by virtue of the law of May 9, 1872. In furtherance of the said decision the Commissioner transmitted to the surveyor general at Olympia a copy thereof for his guidance, and directed a survey in strict conformity therewith.

On the 31st day of July following the surveyor general returned a plat and field-notes of survey as being in conformity with the decision, the tract segregated thereby containing the quantity of five and $\frac{43}{100}$ths acres.

Against this survey there was protest on behalf of the mission March 10, 1873; the Commissioner of the General Land Office considering the returns of survey forwarded by the surveyor general with his said letter of 31st July, 1872, directed that a further

1364 and dif-erent sur*survey* be made in satisfaction of the mission claim to include only the spot of earth covered by the church erection if he (the surveyor general) found that to be the only land enclosed by said mission at the date of the act of August 14, 1848, * * * "or if in your investigation of the matter you found that larger area was thus enclosed at that date you will cause a survey thereof to be made and returned."

On the 21st day of April following the surveyor general made return of a survey, including as the measure of the "charitable provisio" of the said act the quantity of $\frac{46346}{100,000}$ of an acre. In his letter of that date transmitting the said survey, among other things, he says:

"It is, however, very clear to my mind that on the 14th day of August, 1848, there was no enclosure occupied by the mission outside of the limits of the premises embraced in the survey herewith transmitted, and there is even some doubt whether there was any enclosure at that time except the lands actually occupied or covered by the church buildings, convent, and kitchen, as designated in the plat, reference Nos. 1, 2, and 3."

And against this there was protest on behalf of the said mission.

May 19th, 1873, the acting Commissioner directed the surveyor

general to notify the parties in interest and to allow thirty days from date of such notice within which to file objections to said survey.

1365 June 16, 1873, the Very Reverend A. M. A. Blanchet, bishop of Nesqually, having under his jurisdiction the said mission of St. James, acknowledging receipt of notice under the direction of the acting Commissioner's letter of May 19, 1873, duly filed his objections to the said survey.

Because of the pendency of proceedings in Congress, evidenced by the files in the cause, and for other causes final action upon the said survey and surveys has never been had, either by way of approval or rejection of the same.

As matter of fact and law the decision of the honorable Secretary under which the said surveys were made remains unexecuted.

On behalf of the said mission we renew the protests heretofore made against the approval of either one of the surveys above referred to as made under the Secretary's said decision of March 11, 1872.

We pray your attention to the following facts and statement, which we present in aid of our said protests and as grounds for the relief we claim:

1. Upon the original hearing of the case before the surveyor general, when and only when the mission claimants had opportunity to be heard, there was no issue between the United States and the claimants as to the quantity of the grant. On the contrary, the proper officer of the United States, viz., the Commissioner of

1366 the General Land Office, in his instructions to the surveyor general of Oregon of August 18, 1853, had declared: "Such provisions as understood to grant 640 acres to each separate and distinct missionary station referred to." In his annual report for the year 1853 (p. 11) he had repeated this decision, saying of the law, "This has been construed by this office as donating to each missionary station six hundred and forty acres."

When the hearing, therefore, was had to determine the rights of the mission the question of quantity had been settled by official instructions for at least seven years. It was not in question, at the hearing, except only as to the mere fact that there was a mission there situate.

2. The mission claimants may of right complain of surprise and injustice in any and all subsequent proceedings when upon the announcement of a different rule of construction, to wit, "actual occupancy," they are yet required to stand upon the incidental proof above noted as the measure of their rights.

In other words they may and do complain that having been assured that no proof was necessary as to the extent of their claim they are now judged to have had no occupancy beyond the walls of the church (which for that purpose is allowed to answer as an enclosure) because proof of extent was not made.

1367 3. The complainants aver that the instructions given by your predecessors for the survey of the tract awarded by the decision of March 11, 1872, and the surveys thereunder made, are

That there was a hearing of the matter before the surveyor general of Washington Territory, under instructions of the Commissioner of the General Land Office, and a report and decision by him in all things favorable to the mission claim and a survey of the said grant (640 acres) duly made and laid down upon the official township plat of survey.

1363 That there was a decision by the Commissioner of the General Land Office against the claim of the mission, from which there was appeal to the honorable the Secretary of the Interior, who. upon consideration of the record before him, on the 11th day of March, 1872, held that the right of the mission to claim and take under the act had been satisfactorialy established, but adopted it as a principle of construction applicable to all cases under the act that "only the land actually occupied as a mission, and which was with clearness set forth by specific boundaries, together with all improvements thereon, the amount in no case to exceed six hundred and forty acres," could be set off for the mission by virtue of the law of May 9, 1872. In furtherance of the said decision the Commissioner transmitted to the surveyor general at Olympia a copy thereof for his guidance, and directed a survey in strict conformity therewith.

On the 31st day of July following the surveyor general returned a plat and field-notes of survey as being in conformity with the decision, the tract segregated thereby containing the quantity of five and $\frac{49}{100}$ths acres.

Against this survey there was protest on behalf of the mission March 10, 1873; the Commissioner of the General Land Office considering the returns of survey forwarded by the surveyor general with his said letter of 31st July, 1872, directed that a further

1364 and dif-erent sur*sur*vey be made in satisfaction of the mission claim to include only the spot of earth covered by the church erection if he (the surveyor general) found that to be the only land enclosed by said mission at the date of the act of August 14, 1848, * * * "or if in your investigation of the matter you found that larger area was thus enclosed at that date you will cause a survey thereof to be made and returned."

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"It is, however, very clear to my mind that on the 14th day of August, 1848, there was no enclosure occupied by the mission outside of the limits of the premises embraced in the survey herewith transmitted, and there is even some doubt whether there was any enclosure at that time except the lands actually occupied or covered by the church buildings, convent, and kitchen, as designated in the plat, reference Nos. 1, 2, and 3."

And against this there was protest on behalf of the said mission.

May 19th, 1873, the acting Commissioner directed the surveyor

general to notify the parties in interest and to allow thirty days from date of such notice within which to file objections to said survey.

1365 June 16, 1873, the Very Reverend A. M. A. Blanchet, bishop of Nesqually, having under his jurisdiction the said mission of St. James, acknowledging receipt of notice under the direction of the acting Commissioner's letter of May 19, 1873, duly filed his objections to the said survey.

Because of the pendency of proceedings in Congress, evidenced by the files in the cause, and for other causes final action upon the said survey and surveys has never been had, either by way of approval or rejection of the same.

As matter of fact and law the decision of the honorable Secretary under which the said surveys were made remains unexecuted.

On behalf of the said mission we renew the protests heretofore made against the approval of either one of the surveys above referred to as made under the Secretary's said decision of March 11, 1872.

We pray your attention to the following facts and statement, which we present in aid of our said protests and as grounds for the relief we claim:

1. Upon the original hearing of the case before the surveyor general, when and only when the mission claimants had opportunity to be heard, there was no issue between the United States and the claimants as to the quantity of the grant. On the contrary, the proper officer of the United States, viz., the Commissioner of

1366 the General Land Office, in his instructions to the surveyor general of Oregon of August 18, 1853, had declared: "Such provisions as understood to grant 640 acres to each separate and distinct missionary station referred to." In his annual report for the year 1853 (p. 11) he had repeated this decision, saying of the law, "This has been construed by this office as donating to each missionary station six hundred and forty acres."

When the hearing, therefore, was had to determine the rights of the mission the question of quantity had been settled by official instructions for at least seven years. It was not in question, at the hearing, except only as to the mere fact that there was a mission there situate.

2. The mission claimants may of right complain of surprise and injustice in any and all subsequent proceedings when upon the announcement of a different rule of construction, to wit, "actual occupancy," they are yet required to stand upon the incidental proof above noted as the measure of their rights.

In other words they may and do complain that having been assured that no proof was necessary as to the extent of their claim they are now judged to have had no occupancy beyond the walls of the church (which for that purpose is allowed to answer as an enclosure) because proof of extent was not made.

1367 3. The complainants aver that the instructions given by your predecessors for the survey of the tract awarded by the decision of March 11, 1872, and the surveys thereunder made, are

in violation of the said decision in this, that it is required that only lands shall be included within the survey that were on the said 14th day of August, 1848, actually occupied and enclosed, whereas the said decision particularly points it out that "such inferior evidence as the making out of this claim by stakes or blazed trees or the common reputation among the settlers and Indians as to its bounds would be sufficient."

It is declared that for the charitable purposes of the proviso I would give the language a most liberal construction.

The letter of the surveyor general of April 21st, 1873, above quoted, shows that his survey was made with the understanding that he was restricted to actual enclosure, overlooking the material fact that the Secretary had defined his meaning in that regard by laying it down that the mission has therefore a vested title, under the act of 1848, to the land upon which the church edifice stands and as much appurtenant thereto as at the date of the passage of the act was within the enclosure or used for church purposes.

1368 It should be admitted without cavil that a grave-yard consecrated and used in connection with the church was a use for church purposes, and it will be as readily admitted that a school conducted by or under the direction of missionaries is a proper mission work, and that any house occupied for that purpose would be a use of the ground so occupied for mission purposes.

Yet the surveyor general's understanding of his instructions was evidently such as to lead him to ignore the existence of such a use or occupancy for any purpose of the grant.

We herewith file for your consideration in that behalf original affidavits setting forth such facts as incontestibly prove that upon the narrowest construction of the honorable Secretary's decision gross injustice is done the mission by the surveyors aforesaid.

These papers are: Affidavit of Reverend J. B. A. Bronillett, who was a missionary and upon the ground at the date of the act, and who testifies, in addition to the church building proper, there was in the possession and use of the mission adjoining the church a frame building 20 x 30 feet. Some 400 feet from the church, in a N. E. direction, the mission grave-yard, covering some two or three acres of ground. This was enclosed with a fence.

South of the church, at about an equal distance between the church and river, was the mission school-house.

1369 This affidavit contains other matter which, under the Secretary's rule, fairly brings the legal quantity of 640 acres under mission use.

The additional affidavits cor-oborative of the facts testified to by Reverend Mr. Bronillet, and setting forth other pertinent matters, are:

Affidavit of Joseph Petrain.
Deposition of Archbishop Blanchet.
Affidavit of Charles Fizett.
Affidavit of William Ryan.
Affidavit of William Place.

Certified copy of an official letter of Colonel B. L. E. Bonneville, U. S. Army.

In conclusion we beg to call the attention of the honorable the Commissioner of the General Land Office to the fact which his records show, that the rule announced by the Commissioner in the before-mentioned instructions of August 18, 1853, remain the rule of action in the Land Department; that many mission grants are and have been adjusted in accordance with them, and that no mission grant, claiming under the said act of 14th August, 1848, has been adjusted under the principles announced in the instructions of your predecessor under which the pending surveys were made.

Remarking again that there has been no final decision in
1370 this case, but that the same remains open for adjustment by proper survey and patent, there can be no doubt of your right to proceed to its settlement.

We do not conceive it possible that any suggestion will be urged that your office is bound by any previous action resulting in the pending surveys. Maguire *vs.* Tyler (8 Wall., 650); Idem (1 Black., 202); Opinions of Attorney General, vol. 14, p. 74 and p. 95.

We ask upon the proofs and upon the law that, in accordance with the practice of the Land Department, there may be surveyed and patented the quantity of 640 acres of land in satisfaction of the claim conformed to the Mission of St. James.

Respectfully submitted,

CURTIS & BURDETT,
Attorneys for Claimants.

(Endorsed:) Exhibit 96. Interior Department record. Offered by defendants and filed April 17th, 1888. W. Byron Daniels, referee.

1371 DEPARTMENT OF THE INTERIOR, D. T.
GENERAL LAND OFFICE, W. D. S.
WASHINGTON, D. C., *April 7th*, 1888.

I, S. M. Stockslager, Commissioner of the General Land Office, do hereby certify that the annexed copy of a letter dated July 3rd, 1877, addressed by the honorable Secretary of the Interior, C. Schurz, to this office and copy of paper dated June 29th, 1877, enclosed therein, are true and literal exemplifications of said letter and its enclosure as the original- thereof appear on file in this office.

In testimony whereof I have hereunto subscribed my name and caused the seal of this office to be affixed, at the city of Washington, on the day and year above written.

[SEAL.] S. M. STOCKSLAGER,
Commissioner of the General Land Office.

DEPARTMENT OF THE INTERIOR,
OFFICE OF THE SECRETARY,
WASHINGTON, D. C., *3rd July*, 1877.

Hon. J. A. Williamson, Com'r General Land Office.

SIR: I transmit herewith for your information, a copy of
1372 letter of the department of the 29th ult., addressed to Rev. A. M. A. Blanchet, bishop of Nesqually, relative to the Catholic Mission of St. James, in Washington T'y.

Very respectfully, C. SCHURZ, *Secretary*.

Copy.

DEPARTMENT OF THE INTERIOR,
WASHINGTON, D. C., *29th June*, 1877.

Rev. A. M. A. Blanchet, bishop of Nesqually, Vancouver, Washington Territory.

SIR: By reference from the President, I have received your letter addressed to him, on the 13th instant, in relation to the action of this department in the matter of the claim of the Catholic Mission of St. James to certain lands in what is now Washington Territory. Your previous letter addressed to him on the 27th March last, a copy of which accompanies your letter of the 13th instant if ever received by him, was not referred to this department, so that I now learn for the first time, of your wishes on this subject.

In reply, I have the honor to state, that the case having been passed upon by one of my predecessors, I am estopped by a well-settled rule of departmental action from opening it for review.

Attorney General Black, in a letter addressed to the Secre-
1373 tary of the Treasury, on the 26th September, 1857, (9 Opinions Att'y Gen. 101) uses the following language:

It is very well settled that when a Secretary has officially decided or determined any matter or case, and goes out of office, leaving the decision on record, his successor cannot lawfully over turn it, unless upon the production of such new evidence as would be sufficient in a court of chancery, to sustain a bill of review, or to get a new trial in a court of law.

The same doctrine has been held by other attorneys general, both before and after Judge Black.

After a careful reading of your statement, I do not perceive that it is claimed that any new evidence has been found since the decision of the case.

You hold that the decision was erroneous, and inconsistent with that rendered by the same Secretary in a similar case.

Even were I to concede this, (and I do not feel called upon to express an opinion) still I am not at liberty to accede to your request that the case be reopened. I am informed that the matter has been brought before Congress with a view to action in favor of the mission, but that the bill never became a law.

Until further legislation shall have been had, my sense of of-

ficial duty will not permit me to distrust the action of the department in the case.

1374 I am sir, very respectfully, your obt. servant,

C. SCHURZ, *Secretary.*

(Endorsed:) Exhibit 97. Interior Department record. Offered by defendants and filed April 17th, 1888. W. Byron Daniels, referee.

The end of vol. 15.

1375 *Certificate to Transcript.*

UNITED STATES OF AMERICA, }
District of Washington, Western Division, } *ss:*

I, A. Reeves Ayres, clerk of the circuit court of the United States for the district of Washington, do hereby certify the writings hereto attached to be a true transcript of the record, proceedings, and exhibits in case number 26 of the Corporation of the Catholic Bishop of Nesqually, in Washington Territory, plaintiff, against John Gibson *et al.*, defendants, as the same remain on file and of record in my office.

Seal United States Circuit Court, District of Washington.

In witness whereof I hereunto subscribe my name and affix the seal of said court, at my office, in the city of Tacoma, in said district, this the fifth day of August, in the year of our Lord one thousand eight hundred and ninety-one.

A. REEVES AYRES,
Clerk of said Court.

Endorsed on cover: Case No., 14819. Washington C. C. U. S. No. 1345. The Corporation of the Catholic Bishop of Nesqually, in Washington Territory, appellant, *vs.* John Gibbon, T. M. Anderson, R. T. Yeatman, and the United States. Filed August 25, 1891.

Supreme Court of the United States.

OCTOBER TERM, 1894.

THE CORPORATION OF THE CATHOLIC BISHOP, &c., Appellant,

vs.

JOHN GIBBON *et al.*

No. 277.

Appeal from the Circuit Court of the United States for the District of Washington.

BRIEF FOR APPELLANT.

"Yes, yes, his faith attesting nations own;
'Tis *Punic* all, and to a proverb known."

This case involves the title to a tract of four hundred and thirty acres of land, occupied as a military reservation by the United States, at Vancouver, in the State of Washington; and the claim of appellant is based upon the establishment of a missionary station at Vancouver, with the consent of the Hudson Bay Company, and brings into question the construction of the organic act of Oregon Territory, and other questions growing out of the laws of the United States touching the public lands, as will be seen by reference to the opinion of the court below (Rec., 43–48), and from other parts of the Record hereinafter cited.

It was begun in a district court of Washington Territory and went to the Supreme Court of that Territory, but transferred from there to the United States Circuit Court, under the act of Congress admitting the State of Washington in the Union, approved February 22, 1889.

A demurrer was interposed to the complaint, and the court passed upon it to some extent, but did not rely upon it entirely, as the difficulties that seemed to exist in the mind of the court, upon the demurrer, were removed by the action of the Attorney General, in directing the United States be made a party to the suit with the persons who claimed under the United States. (Rec., 44, &c.)

Upon answer and reply to that, and much proof taken, and report of master or referee, the case was decided adversely to appellant and this appeal prosecuted. (Rec., 49–50.)

The error assigned is, that upon the final hearing, the court decreed adversely to the claim of appellant to the land in controversy, and dismissed the complaint, when it should have sustained the complaint and granted the prayer therein to quiet appellant's possession and title to the land.

Judge Hanford, in his opinion in the case, manifests a very proper disposition to have the matter settled fully and entirely on its merits, and sees jurisdiction in the case and disposes of it. But this court, always reserving jurisdictional questions, whether or not, for its own consideration and decisions, may not overlook or disregard these preliminary points, and we deem it proper to call attention to them before going to the merits of the case.

The question was raised, on the demurrer, of the right to bring this suit against tenants of the United States, but that of itself was of no force as it is disposed of by the *Lee Case, 106 U. S., 196.* This is true as the case was originally brought, but no color of objection was left,

after the United States were made a party by action of the Attorney-General. (*Stanley* v. *Schwalby, 147 U. S., 508.*)

The opinion in this *Stanley* case reviews several cases which recognize this course as permissible and binding; and this relieves the matter of anything found in the *Jones Case, 131 U. S., 1,* the decision of which, at most, has little or no bearing here, as the court will see at once on examining it.

Arising upon the demurrer also, the point was made that complainant had not shown itself within the terms of the 2d proviso contained in section 3 of the act of the Territorial legislature, creating this corporation, passed January 30, 1861. This section 3 reads thus:

"That said corporation shall have continual, perpetual succession, and shall have power to acquire, receive, and possess by donation, gift, or purchase, and to retain and enjoy property real, personal, and mixed, and the same to sell, grant, convey, rent, or otherwise dispose of at pleasure: *Provided,* however, that no part of the resources thereof shall ever be used for any other than the purposes above specified: *And provided further, That the yearly income accruing from said property, to said corporation, shall not exceed seventy-five thousand dollars.*" (See Laws Wash. Ter., 1861, p. 129, passed Jany. 30, 1861.)

No rule of pleading required the appellant to show it came within that proviso. This is a matter of defense, but not one that should be anticipated by the complainant. That rule, which sometimes requires an exception in the body of the act to be negatived, has no application to a proviso. *Bliss Code Pl., Sec. 202; 1 Nash Code Pl. & Pr., 133; 18 Am. & Eng. Ency., 502;* (Tit. G. Exceptions, Provisos, &c.,) and, in truth, the old rule is not different from what is indicated by the code proceedure. *Steph. Pl. (9 Am. Edn.), 443; 2 Saund. Pl. & Ev., 830; Vavasour* v. *Ormond, 6 B. & C., 431; Simpson* v. *Ready, 12 M. & W.,*

740; *Com'l* v. *Hart, 11 Cush.* (*Mass.*), *135*; *Gould Pl., 178, Sec. 19.*

These dispose of the questions on demurrer.

Appellant claims the right to this land by virtue of the proviso in section 1 of the act of Congress of August 14, 1848, establishing the Territorial Government of Oregon, which reads as follows:

"*Provided, also,* That the title to the land, not exceeding six hundred and forty acres, now occupied as missionary stations among the Indian tribes in said Territory, together with the improvements thereon, be confirmed and established in the several religious societies to which said missionary stations respectively belong." (9 St., 323.)

If, therefore, there was upon the land in controversy in this action a missionary station of the Catholic Church among the Indian tribes on August 14, 1848, the church thereby became entitled to 640 acres of land upon which such station was so located.

The Issues Upon the Pleadings and the Facts.

The allegations of the complaint are either not denied, and therefore stand admitted, or are denied as follows by the answer of the defendants:

1st. That plaintiff is a corporation, as alleged in the complaint, with power to acquire, hold, and dispose of real and personal property, and to sue and be sued; that Aegedius Junger, as bishop, is such corporation and the proper party to take and hold lands granted to the Catholic Church in Washington Territory, *is not denied.*

2d. That in 1838 the Roman Catholic Church, by two of its missionary priests, F. N. Blanchet and Modeste Demers, acting under authority of the Catholic Bishop of

Quebec, established a missionary station among the Indians and early settlers of Oregon on the north bank of the Columbia River, upon 640 acres of land adjacent to the present town of Vancouver, in T. 2 N., R. 1 E., as since surveyed by the Government. *This is denied.*

3d. That the instructions given by the Bishop of Quebec to said priests were as follows when they started for Oregon:

1. To consider, as the first object of their mission, to draw out from barbarity and disorder the Indian nations spread in that country.

2. To consider, as the second object of their mission, to attend to the spiritual necessities of the Christians, who, having adopted the morals of the Indians, lived in licentiousness and forgetfulness of their duties.

3. To preach the gospel on every opportunity, either in public or in private; to study the Indian languages, so as to be able to publish a grammar of them; to prepare, without delay, for baptism the Indian women married to white men, so as to be enabled to validate their marriages; to give Christian instruction to their children, establishing for that purpose, as much as their means would permit, schools and catechisms in every tribe they would have opportunity to visit. *This is not denied.*

4. That said Catholic mission was so established, and has ever since been maintained upon said 640 acres of land solely for the purpose contained in said instructions, and said land was so occupied as such missionary station, and said instructions were being faithfully complied with by the priests of said church at said mission upon said tract of land on August 14, 1848.

This is denied, and is denied generally that any missionary station was ever established by said church, or any priests thereof, on said tract of land.

5th. That on August 14, 1848, the act of Congress was passed, the granting *proviso* in which is recited, in quotation. *This is not denied*

6th. That on August 14, 1848, that section of country was in possession of the Hudson Bay Company, under license from the British Government, giving such company "a mere possessory right to establish posts within said Territory for trading purposes among and with the Indians, and the license did not invest or purport to invest the company with any right or title whatever in or to the soil, but with the bare possessory right of occupancy for the purposes aforesaid;" that by article third of the treaty of June 15, 1846, between the United States and Great Britain, the latter government relinquished to the former its right to the Territory of Oregon, including what is now Washington Territory, and that in said treaty it was stipulated and provided that "the possessory rights of the Hudson Bay Company, and of all British subjects who may be already in the occupancy of land or other property lawfully acquired within said Territory, should be respected;" and the license of the Hudson Bay Company "duly expired and terminated by limit of duration on the 15th day of May, 1859." *This is not denied.*

7th. That in accordance with such agreement on the part of the United States to respect the possessory rights of said company, the public surveys were never extended over the land in controversy in this action until September 29, 1859. *This is not denied.*

8th. That in 1853, the Catholic mission, established in 1838 on the 640 acres of land which includes the 430 acres in controversy in this suit, filed with the surveyor general of Oregon an official notice of its claim to said 640 acres of land, and at the expiration of the Hudson

Bay Company's license aforesaid, said mission notified the Commissioner of the General Land Office of the extinction of such license, and asked for an official survey of the 640 acres of land so granted to the mission by the act of Congress of August 14, 1848.

This is undenied, except by a general denial that any missionary station was ever established upon this land by the Catholic Church or any priests thereof or otherwise.

9th. That the Commissioner accordingly issued to the surveyor general of Washington Territory instructions to "proceed to extend the lines of the public surveys over the tract of country in question where the aforesaid possessory privileges (of the Hudson Bay Company) have become extinct, and make regular returns of surveys and transmit approved township plats thereof, laying off the mission on the principles laid down in the sixth section of the act of Congress, approved 27th September, 1850 (9 St., 498), and appropriately representing it on the plat of the township in which the same may be situated, and will, of course, properly designate on the official plats the tracts reserved by the United States for military or other purposes; and that such provision (meaning thereby the proviso in the act of August 14, 1848,) is understood to grant 640 acres to each separate and distinct missionary station referred to, and a like provision is made in the act to establish the Territorial government of Washington." *This is not denied.*

That the surveyor general did accordingly extend the public surveys over the township of land in which the 640 acres granted to the Catholic mission by act of August 14, 1848, is situated and made a plat thereof on which the 640 acres, which had been so occupied by such missionary, was laid off as being the land so granted to the Catholic Church as a missionary station by the act

of Congress, and the surveyor general duly report survey and plat to the Commissioner of the General Land Office for his approval, if found correct, a plat of which survey is filed with the complaint marked "Exhibit A." (Rec., 168).

This is undenied, except by said general denial that there was ever a Catholic missionary station upon this land.

10th. That in May, 1849, Major J. S. Hathaway, U. S. A., at the request and by consent of the Hudson Bay Company, established a military post and fort at Vancouver, upon the lands so granted to the Catholic Church as a missionary station, and took possession of all of the 640 acres of land not enclosed by the Hudson Bay Company, but subject to its possessory rights under said article three of said treaty.

This is not denied, except as by the general denial that the church ever established or had any missionary station on the land.

11th. That when the military took possession of the land there was upon it a church building outside of the enclosures of the Hudson Bay Company belonging to the Catholic Church, and a graveyard belonging to such mission, and a school house owned by the missionaries. *These allegations are denied.*

12th. That on August 14, 1848, religious services were held in such church and a marriage celebrated therein by the Catholic priests occupying missionary station; that five acres of such ground was occupied as a burying ground of the mission, and the school house was in use as such, and the remainder of the tract was occupied by Indians and other persons as a camping ground while trading with said Hudson Bay Company, and receiving religious instruction from the missionary priests occu-

pying the station, and who were engaged in visiting and religiously instructing the persons camping on such ground.

The above allegation as to the celebration of a marriage in the church on August 14, 1848, is denied on information and belief; the remaining allegations are denied absolutely.

13th. That on October 31, 1850, the War Department of the United States declared a military reservation four miles square, including the 640 acres of land so granted and belonging to such church, by act of August 14, 1848, but upon the passage of the act of Congress of February 14, 1853, reducing military reservations to 640 acres of land, the War Department, by its order of October 29, 1858, reduced such reservation at Vancouver so as to cover 430 acres of the 640 acres so granted to the Catholic Church by act of August 14, 1848. *This is not denied.*

14th. That such proceedings of the War Department were subversive of the rights of the church and of plaintiff in the premises, and was duly remonstrated against by the church, but without avail. *This is denied.*

15th. That the Commissioner of the General Land Office refused to approve such survey and report, and his decision was appealed from to the Secretary of the Interior, who declined to act upon the appeal, as appears from a copy of his decision of July 29, 1864, filed as "Exhibit C" to the complaint. *This is not denied.* (Rec., 209.)

16th. That in 1871 the matter of the mission claim to the 640 acres of land coming again before said Secretary, it was referred by him to the Attorney General for his opinion touching the questions of law controlling the case, upon the facts as established by the proofs and evi-

dence, and requested his opinion as to the principles of law governing the case. *This is not denied.*

17th. That on January 29, 1873, W. H. Smith, Assistant Attorney General, furnished such opinion to the Commissioner of the General Land Office, a copy of which is filed with the complaint as "Exhibit D" (Rec., 245, *et seq.*), in and by which he admitted the establishing of such mission on the land in 1838, by Blánchet and Demers, under and in accordance with their instructions from the bishop of Quebec, and that said mission was maintained upon the land from 1838 to August 14, 1848, and that the mission and missionary station was occupied by the priests of the Catholic Church on the last-named day, and that during such ten years the priests devoted themselves to the missionary cause, by preaching to and baptizing Indians, solemnizing marriages among them, devoting themselves to the redemption of the Indians and the instruction of the whites who were living there, and holding religious services prior to August 14, 1848, in a church building erected and donated to said mission by the chief factor of the Hudson Bay Company, said priests being, meanwhile, supported by the aid of The Society for the Propagation of the Faith, of Quebec, and a like society in France, by subscriptions of servants of the Hudson Bay Company by the products of farmers belonging to the mission and by donations from the Hudson Bay Company; and that from 1846, when the church was built and dedicated, such mission was known by the name of "St. James." That the claim of the mission was opposed by the military reservation claim as to part of the 640 acres claimed by the mission, and by the Vancouver town-site claim, and the donation claim of Short's heirs, as to the remainder of the 640 acres not embraced in the reservation claim. That as matter of law, under those facts, the mission was

entitled, under said act of Congress of August 14, 1848, to only so much land as was on that day actually occupied by its buildings and enclosures, or had been previously marked out by stakes or blazes, or had been commonly reported among the settlers and Indians as being otherwise bounded; which construction of the term "occupied," as used in the act of August, 1848, was in conflict with the previous construction of the commissioner, that "such provision is understood to grant 640 acres of land to each separate and distinct missionary station referred to," but which latter construction was declared, by said Assistant Attorney General, to be "an erroneous construction of the proviso," and he, therefore, recommended that the then commissioner should hold and decide that "on the 14th day of August, 1848, the date of the passage of the act, the mission of St. James was in *actual* possession of a small piece of land upon which had been erected a church, in which the priests there stationed held religious worship," and that said mission was, at the date of said act only in occupancy of the land covered by the church edifice and such land as was appurtenant to it, and that "the society to which the mission belongs has, therefore, a vested title, under the act of 1848, to the land upon which the church edifice stands, and as much appurtenant thereto as at the date of the passage of the act was within the enclosures, or used for church purposes." *None of these allegations are denied.*

17½. That said Hudson Bay Company occupied the land under such license from the British Government only for trading purposes, without intention or capacity to hold or acquire any title whatever to the soil, or any other than such bare possessory right for trading purposes; while the Catholic Church occupied the 640 acres of land for the purposes mentioned in the act of August

14, 1848, but that the protection of such possessory right in the company, until the expiration of its license, which was guaranteed to the company by treaty, rendered it unlawful and impossible for the Catholic Church or its priests, or any occupant of such mission to attempt to survey, inclose, stake or blaze, or otherwise establish the boundaries of the 640 acres of land granted to such mission, until after the expiration of license and the termination of such possessory rights of the Hudson Bay Company upon this land. *None of these allegations are denied.*

18th. That the opinion of the Assistant Attorney General was erroneous in law, in attempting, upon the facts conceded by him, thus to limit the area of such grant to the small parcel of land covered by the church building and contained within enclosures appurtenant thereto, and such mission was entitled, under those facts, to 640 acres of land granted by act of August 14, 1848. *This allegation is denied.*

19th. That, nevertheless, the Secretary of the Interior being misled by such opinion as to the law of the case, and while admitting and conceding the facts stated in such opinion, did decide contrary to law, that such mission was only entitled to the parcel of ground covered by the church edifice and contained within enclosures appurtenant thereto, as appears by a copy of his decision filed with the complaint as "Exhibit E." (Rec., 254, *et seq.*)

It is denied in the answer that the Secretary was misled or that his decision was contrary to law, but it is admitted he made such a decision.

20th. That the adverse claims of the Vancouver town site and of Short's heirs to the remaining 210 acres of

the 640 acres has been mainly adjusted between the claimants and the mission, and are not involved in this suit, which embraces only the 430 acres included in the claimed military reservation. *This is not denied.*

21st. That in 1849, when the military took possession of 430 acres, there was no other public land adjoining or adjacent to the ground on which the church building then stood, out of which the 640 acres granted to the mission, or any part thereof, could be obtained or surveyed or allotted to the church, except the 210 acres and the 430 acres. *This is not denied.*

22d. That on August 28, 1883, the surveyor general of Washington Territory certified to all parties in interest that the Commissioner, under date of August 4, 1883, had decided that the survey of Levi Farnsworth, U. S. Deputy Surveyor, of July 10, 1872, covering $\frac{46,346}{100,000}$ of an acre as the area of land alloted to the mission was approved and adopted by the Land Department as the final and official survey of the land granted to such mission by act of August 14, 1848, and that 60 days from August 28, 1883, was allowed within which to appeal from that decision, a copy of which notice is filed with the complaint as "Exhibit F." (Rec., 254 *et seq.*) That such appeal was duly taken within 60 days, and that on such appeal the decision of the Commissioner was affirmed by the Secretary of the Interior, and that the Commissioner therefore refuses to issue a patent to said mission or to plaintiff for any more land under said grant than said $\frac{46,346}{100,000}$ of an acre. *These allegations are admitted.*

23d. Then follow the allegations of the complaint that the individual defendants are officers of the United States Army in command at Vancouver, and that, acting under the advice and instructions of the War De-

partment, they are destroying fences, buildings, and orchards of plaintiff on five acres of land inclosing said church building, and that unless enjoined they will forcibly eject plaintiff from all of said ground and destroy the property of said mission thereon, except as to such fraction of $\frac{46,346}{100,000}$ of an acre.

That plaintiff and the mission have exhausted all legal remedies to procure a patent to such 430 acres of land in controversy, and have no other source of redress except from a court of equity. *This is not denied.* (Rec., 1–11 for complaint; for answer, 11–16, 16–19 for replication.)

The prayer of the complaint is, therefore, for a perpetual injunction against those officers and their successors in authority from further molesting such fences, houses, and trees of the mission on the five acres, and that plaintiff be decreed to be the owner of said 430 acres of land, and to be entitled to a patent therefor as the legal representative of the Catholic Church and mission.

The Answer. (Rec., 11–16.)

After admitting or denying the allegations of the complaint as above stated, the answer sets up, as a first defense, in substance as follows:

FIRST DEFENSE.

1. That the Hudson Bay Company was a commercial company created by act of Parliament of Great Britain prior to 1825, for the purpose of trading among the Indians inhabiting the northwest part of the North American Continent, and was authorized to establish trading posts to that end. *This is admitted by the reply.*

2. That in 1825 the Hudson Bay Company took absolute control and possession of the 640 acres of land and established on the same and adjacent lands their trading post and a fort; that the Hudson Bay Company erected a fort on the 640 acres of land, 750 by 500 feet in size, in the shape of a parallelogram, and inclosed a large part of the 640 acres with a picket fence over 20 feet high, and took possession of all land in and about the fort, and erected buildings thereon for the use of its servants.

The reply denies that the Hudson Bay Company took possession of any part of the 640 acres of land or exercised any control over the same, except to establish thereon a trading post among the Indians, and denies that the company inclosed any of such land except the parallelogram 750 by 500 feet in size, and such as was covered by the houses occupied by its servants.

3. The answer further alleges that the Hudson Bay Company erected the church building. *This is not denied.*

4. That the graveyard was attached to the post and fort of the Hudson Bay Company. *This is denied in the reply.*

5. That on August 14, 1848, the post and fort and buildings, including the church, graveyard, and school house, and the entire 640 acres of land, was the metropolitan establishment of the Hudson Bay Company on the Pacific, under the superintendency of its officers and agents, and that, from 1825 to 1849, the Hudson Bay Company prescribed laws, administered justice, and cared for the population residing on the 640 acres of land as though that company were a principality subject only to the nominal sovereignty of Great Britain.

The reply denies that on August 14, 1848, the Hudson Bay Company had possession or exercised control over the church, graveyard, or school house, or the ground on which they were or either of them was located, and denies that such company ever had any control or possession of any part of the 430 acres, except under its bare possessory right for trading purposes.

6. The answer alleges that a short time prior to 1838 the Hudson Bay Company requested the Bishop of Quebec, Canada, to send to the post at Vancouver priests for the purpose of caring for the faith and morals of its numerous employés of the Roman Catholic faith, of whom there were a great many, and that the priests, Blanchet and Demers, were sent in compliance with that request. That the Hudson Bay Company built and owned the church and school house mentioned in the complaint, and never surrendered the ownership thereof to such priests or to plaintiff, but did surrender the same to the United States. *These allegations are all denied.*

7. The answer alleges that no such mission as stated in the complaint ever existed on the 640 acres of land, but that the priests occupied the church building, and a small parcel of ground surrounding it, by the sufferance of the Hudson Bay Company, and under the pay of that company as its servants.

The reply denies that either of such priests was ever in the employ of the Hudson Bay Company, or paid by it; admits that the said company had a general possession and control, for trading purposes, of the entire country in which the 640 acres was located, and that the priests occupied said church by invitation and request of the company until the church was donated to the mission and dedicated to religious purposes, after which the same was occupied by the priests and their successors

as the property of the Catholic Church and mission, and not otherwise.

The answer alleges that the 640 acres of land was used and occupied by the Hudson Bay Company until May 13, 1849, as its metropolitan post, and that the church and mission was only an incident and subordinate part of the occupation of the Hudson Bay Company.

The reply denies that the church or mission was an incident or any part of the occupation of said Hudson Bay Company.

9. The answer alleges that on May 13, 1849, the military authorities of the United States, under instructions of the War Department and by permission and agreement of the Hudson Bay Company, took possession of the 640 acres, and established thereon a military post of the United States, and remained on the same until the present time, and that shortly thereafter the President of the United States, in the manner provided by law, reserved the 640 acres for a military post of the United States, which it has ever since been and now is.

The reply denies that the military, on May 13, 1849, or at any time, occupied any of the 640 acres by permission or agreement of the Hudson Bay Company, except so much thereof as was occupied by the soldiers' camp and houses, and denies that the President ever lawfully reserved any of the 640 acres as a military post of the United States; and denies that any part thereof now is or ever was a lawful military reservation or lawfully occupied by United States soldiers.

SECOND DEFENSE.

10. That neither such Catholic Church, mission or priests ever laid claim to any part of the 640 acres, or asserting any right or interest therein, until May 28,

1853, but that the church, on that day, for the first time, asserted such claim. *This is denied by the reply.*

11. That after filing the notice of May 28, 1853, plaintiff and the bishops and priests, mentioned in the complaint, procured false and fraudulent affidavits and testimony to be forwarded to the Commissioners of the General Land Office, and to the Secretary of the Interior, touching the occupancy of the land by the mission, and touching the establishment of the mission, which testimony was false and untrue in this, that it failed to disclose the fact that such occupancy of the church, school, and graveyard was under the Hudson's Bay Company. That the award by the Department to such mission of $\frac{46346}{100000}$ of an acre was made by the officers under the belief that such testimony was true, and when the officers were wholly ignorant of the facts in the case.

These allegations are each and all denied in the reply, beside which, it is therein further denied, that any of such testimony was false, or that the church, graveyard, or school house was occupied under the Hudson Bay Company, as alleged in the answer.

THIRD DEFENSE.

12. Alleges that from May, 1849, until May 28, 1853, the plaintiff and the parties represented by him in this suit knew that the United States was occupying 640 acres as a military reservation, and making valuable and permanent improvements thereon, worth $200,000 and more, and that plaintiff and the parties he represents stood by and saw the same done without objecting thereto or laying any claim to such property; that the improvements now on this property are worth $400,000, and the land worth $100 per acre, and the $\frac{46346}{100000}$ of an acre is worth $1,000.

The reply denies that the United States ever lawfully occupied this land or improved the same for military purposes; denies that plaintiff, or any party represented by him, stood by and saw such improvement made without objecting thereto, or did not, during that period, lay claim to this land; and denies knowledge or information sufficient to form belief as to the value of any of such improvements.

Argument.

According to our understanding of this case, we consider at least nine-tenths of the evidence which has been introduced by the appellees to be immaterial.

The bulk of the oral testimony of defendant's witnesses, given before the referee, relates to matters that transpired after August 14, 1848. If the Catholic Church had such a missionary station on the land in controversy, prior to and on that day, as is mentioned in the act of Congress of that date, referred to in the pleadings, then the church became entitled to the quantity of land designated in the granting act, and of course could not be deprived of the land by the subsequent conduct and acts of the military department of the Government, referred to in the pleadings and in the testimony of those witnesses; and if the church did not become entitled, by the terms of such act, to any of the land in controversy, then such evidence is equally unimportant.

There are but two principal questions involved in this case, one a question of *fact*, which is:

Did the Catholic Church, prior to and on the 14th day of August, 1848, have upon the land in controversy such a missionary station as is mentioned in the act of Congress? And the other a question of *law*, which is:

If such a missionary station did exist, to how much of such land did the church become entitled under the granting act?

The question of fact is one which, according to the oft-repeated decisions of this court, the Land Department has, in the first instance, exclusive jurisdiction to determine, and its findings are, in that particular, conclusive, and will not be reinvestigated or inquired into by the courts, unless upon the ground of fraud practiced by the successful party, by which such findings are procured or induced, and which fraud must be intrinsic or collateral to the matter tried or determined before the Land Department, and not fraud consisting of perjury in the matter on which the determination is made, except where the proceeding is *ex parte*.

But mistake of law committed by that Department in its rulings will be corrected.

United States *v.* Minor, 114 U. S., 233, 239–244;
United States *v.* Throckmorten, 98 *ib.*, 61;
Vance *v.* Burbank, 101 *ib.*, 519;
Steel *v.* Smelting Co., 106 *ib.*, 447;
Marquez *v.* Frisbie, 101 *ib.*, 473;
Moore *v.* Robbins, 96 *ib.*, 530, 535;
Shipley *v.* Cowan, 91 *ib.*, 340;
Quinby *v.* Conlan, 104 *ib.*, 420;
United States *v.* Lee, 106 *ib.*, 196;
Rector *v.* Gibbon, 111 *ib.*, 276;
Lee *v.* Johnson, 116 *ib.*, 48.

Moreover, the pretended allegations of fraud contained in the answer, by means of which it is attempted to be asserted that the findings of the Land Department in favor of the mission claim were induced, are so general, indefinite, and insufficient under all recognized rules of pleading, both at law and in equity, that they will be disregarded by the courts in this case. The particular

acts constituting the alleged fraud must be stated. And the matters even thus generally alleged are not such as are extrinsic or collateral to the matter tried before the Department, when such findings of fact were made.

Sto. Eq. Pls, secs. 251–253;
Kent *v.* Snyder, 30 Cal., 674;
United States *v.* Atherton, 102 U. S., 372;
United States *v.* Throckmorton, 98 U. S., 61.

This rule is of universal application.

Ellison *v.* Conway, 14 Arks. 360, and cases cited;
Governeur *v.* Elmendof, 5 John, C. 79.

The evidence, documentary and oral, introduced by the appellant, consists of certified copies from the General Land Office of letters, rulings, findings, and decisions of the officers of the Land Department, to sustain the allegations of the complaint, that it has been from first to last found and decided by that Department that the Catholic Church did have, upon the land in controversy, long prior to and on said 14th day of August, 1848, such a missionary station as was named in said act of Congress of that date; and to show that such finding of fact was made, not in an *ex parte* proceeding, but after full hearing, in a contest ordered by that Department for the purpose of obtaining all the available evidence that might be introduced on behalf of the several contesting claimants, among which the Catholic Church and the United States Government were included and represented. Certified copies from the General Land Office of the depositions of witnesses for the Catholic Church in that contest are also introduced in evidence by appellant to show the character of the evidence upon which such findings in favor of the church or mission were based; and the oral testimony of the witnesses examined on the part of the plaintiff before the referee was taken to show, as far as at this late day is possible, that the testimony of

the witnesses for the church, who testified before the Land Department in that contest, was true and not false or fraudulent.

The following arrangement and abstract of the evidence offered by appellant in the order in which it should come will aid the court in investigating the same, and we venture to be tedious, possibly, in presenting this to the court, as it is of the first importance—in this case of vast importance:

The application or notification filed by Bishop Blanchet on behalf of the Catholic Church, with the surveyor general of Oregon, on May 16, 1853, claiming for the St. James mission, at Vancouver, established as a missionary station among the Indians in Oregon in the year 1838, 640 acres of land surrounding such mission, under such act of August 14, 1848. (Rec., 205.)

Affidavits of Joseph Petrain and Charles Proulx also filed May 16, 1853, in support of said notification. (Rec., 206–7.)

Application of A. M. Blanchet to amend said notification, dated May 28, 1853, and December 31, 1853. (Rec., 207.)

Letter of Gov. Ogden of date May 23, 1853, addressed to Preston, surveyor general, protesting against the said notification filed by Bishop Blanchet. (Rec., *sup.*)

Gen. Rufus Ingalls also protested on behalf of the military about the same time (see his evidence). (Rec., 365, 463.)

The Government surveys were not extended over the land in controversy until 1859, six years after this notice of the mission claim was given and protested against.

Letter of Wilson, Commissioner, to Tilton, surveyor general, W. T., dated December 19, 1859, referring to mission claim, military reservation claim, townsite claim, and Short's heir's claim, and directing that a hearing between these contesting claimants be had and reported with the decision of the surveyor general thereon. (Rec., 170.)

Letter of surveyor general transmitting such report to Edmunds, Commissioner, January 23, 1862, by appellees. (Rec., 171.)

The surveyor general's report, containing his finding and decision in favor of the mission for 640 acres of land. The report shows that due notice was given to all of said contesting claimants of such investigation to be had on April 23, 1860 (defendant's evidence). (Rec., *sup.*)

The following documents are referred to in that report beside those already mentioned, and will be found in the evidence as reported in the Record following the report, *sup.*

Instructions of the Bishop of Quebec to Blanchet and Demers, the first priests who came to Oregon, together with letters connected therewith.

That a school was kept by the priests for Indian children in a house purchased by Blanchet for the purpose. (Report, 36; see Blanchet's deposition.)

The Catholic Church dedicated May 31, 1864. (Report, p. 36.)

As to the marriages, baptisms, and burials performed at the St. James mission from December 1, 1838, see the exhibits to Poap's deposition. (Rec., 129, 141, 158.)

Joseph Petrain and wife were married in the church at Vancouver August 14, 1848. (Poap's dep., Rec., *sup.*, foot of page, and next to last page of the exhibits thereto, extended; and also for confirmation June 4, 1848, and admission of appellees as to these records.)

The following is a summary of testimony of some of the witnesses examined by the surveyor general in 1860:

"In the matter of the contested land claims at Vancouver, Washington Territory, before surveyor general J. Tilton," commencing on page 210, Record.

Joseph Petrain; farmer; age, 40 years; resided near Vancouver, and was the probate judge of Clarke county; came to Oregon in 1837; arrived at Vancouver November 4, 1837, and, with the exception of three months in the spring of 1838, resided continuously at Vancouver until the spring of 1849; knew Rev. F. N. Blanchet and Modester Demers; was residing at Vancouver when they first arrived there in November, 1838; they were the first Catholic priests who came to Oregon; they came as missionaries; I was then in the service of the Hudson Bay Company, and so remained until 1848; Dr. John McLaughlin was chief factor of the Hudson Bay Company in 1838, and so continued until 1844 or 1845, I think; from the time of the arrival of said priests they acted and performed labor as missionary priests, and I believe established a missionary station at Vancouver, which I believe has been maintained to the present time (when witness was testifying); there were a great many Indians at and near Vancouver in 1838 and up to 1842; there were then from 1,500 to 2,000 Indians living at Vancouver; from 1842 to 1849 there were only from 300 to 500 Indians at Vancouver; I have seen different Catholic priests instructing and preaching to the Indians at and near Vancouver between 1838 and 1849, and in each of

those years; I have been present many times at such instructions; I have so heard teach and instruct the Indians Fathers Cherouse, Devos, Delevand, Longlois, Nobile, Blanchet, and Demers; Indians were in the habit of attending church services at Vancouver from 1838 to 1856; church services were first held by the missionaries from 1838 to 1845 inside the pickets of the Hudson Bay Company; I lived outside the pickets from 1838 to 1849, and was at the building used for church services by the priests almost every day; a great many Indians went then to church and for instruction; I do not remember the date when the church building outside the pickets was commenced; it was two or three years before it was dedicated; Dr. McLaughlin and Mr. Douglas selected the site for it; I was present at the time; John Finlay and Bishop Blanchet were also present, and I think Father Demers was also; I was present when that church was blessed and dedicated; almost all the officers of the Hudson Bay Company at Vancouver were also present; Chief Factor Douglas was present with his family; Father Devos was the missionary then in charge of this station, and officiated at the dedication of the church; I signed the register as a witness to the dedication (examined and identified said register and his signature); I know the handwriting of James Douglas, John Finlay, and Father Devos; these are the genuine signatures to that record of dedication, and were made at the time of the dedication; that was in 1846; there was a good deal of repair done to that church from that time up to 1852; it was reshingled in 1852 or 1853 at the expense of the bishop; it has also been enlarged, but I do not remember when; there was a missionary station at Vancouver among the Indians in August, 1848; Father Delevand was in charge of it; I was married in that church on August 14, 1848, by Father Accolti, who was here on a visit, as was also

Father La Bas; there were some Indians present at the wedding; the missionaries were in the practice of visiting the Indians at their camps in Vancouver; I have often been with them myself and seen them instruct the Indians in their lodges at Vancouver, and have been present many times when they have baptized Indians at this mission station. I was a witness at one time to the baptism of over forty Indians by Rev. Demers; I have also seen Fathers Devos and Delavand baptize many Indians at Vancouver at different times; the missionaries instructed the Indians in "Jargon," French and Klickitat; I heard Bishop Blanchet instruct the Cascade Indians in their own language; the priest generally instructed the Indians in "Jargon;" the Indians used to sing in church in "Jargon;" they could repeat many canticles in "Jargon," and the missionaries taught the catechism to the Indians in the "Jargon;" the servants of the Hudson Bay Company contributed to the support of the mission; I subscribed ten shillings sterling at one time; I have heard Dr. McLaughlin and Chief Factor Douglas many times advise their people to allow something to the support of the missionaries and the mission; I never heard missionaries spoken of or called chaplains; there was at one time a Protestant clergyman at the fort; I don't know whether he was a chaplain or not; every time I had occasion to talk with Dr. McLaughlin and with Mr. Douglas they spoke of the priests as missionaries, or as "your missionary," as Mr. Blanchet or Mr. Demers; I have heard the priests tell the Indians that they came to this country to instruct them; they used to tell the Indians that their (the missionaries') chief in Canada sent them here to instruct them, to learn them the ways of the whites; I heard Mr. Demers tell the whites in church once that they were not sent out here only to attend to the whites, but to attend to the Indians, and that if the whites acted as they had been

doing, the missionaries would leave and live altogether with the Indians; I was the baker for the Hudson Bay Company; I know the small building near the church on the east side; it used to be attached to the church; the frame was built at the same time the church was; it was intended for the dwelling of the priest; I have no recollection of ever hearing that it was used for church services; in 1852 or 1853, when the church was being repaired under the direction of Rev. Brouliet, I think mass was said once or more in that small building; I knew Amos M. Short; I became acquainted with him in 1846; I know the land-claim now claimed by his widow and heirs; in 1850 Short told me that his claim ran from the southwest corner back north one mile, and that his east line running north from the river was one mile and a quarter; I have seen one Dr. Gardner at Vancouver living in his own house, which was 300 yards or more from the western wharf; I can't say that he owned the house; he was the only person living in it.

Cross-examined by Mr. Holbrook in behalf of the military reservation. (Rec., 216.)

I was seventeen years old when I came to Oregon; I have no interest in the land in dispute and have no promise of any if the mission claim should be confirmed; the Hudson Bay Company built the Catholic Church; the priests occupied, so far as I know, in 1848, only the land on which the church is built. The Hudson Bay Company put up the frame of the small house adjacent, and I think it was finished by the mission, but can not swear that it was; by saying that there was a mission station at Vancouver in 1848, I mean that the successor of the first missionaries, who was here at that time, performed the same duties as his predecessors did; he lived in that little house by the church; it was in that year,

or 1849, they made their residence there; Father Devos, who dedicated the church, resided here in 1848; he was succeeded by Father Delevand; I can not swear when he came; I don't remember to have seen him here in 1848; yes, I believe he was here then and lived in the fort; he also lived in the small house in 1848 or 1849; I have seen him sleeping there in 1850; I know I saw a United States officer in the small house in 1850; I think, Major Simonson; I think Father Delevand was there with him; I can't tell exactly how it was; I know Father Delevand did live in the small house by the church; I think the repairs on the church were made by the bishop in 1852; I never saw Delevand drunk; have seen him take liquor; I never knew or heard anything against his chastity; when I first came to Vancouver, in the winter, I believe there were more than 2,000 Indians here at one time; I don't recollect that the priests ever cultivated or fenced any land here before 1850; I think it was in 1852 that I first heard that the priests proposed to hold a mission claim here; I think at that time the military reservation had been laid out and some lots sold for a town site; the Hudson Bay Company built all that the priests had occupied, and furnished them with board, fuel, and quarters until that time; I have many times heard Archbishop Blanchet preach in "Jargon;" I believe that Delevand kept up services regularly in 1848; I believe I attended church almost every Sunday; I know of no attempt to hold land elsewhere in this county.

Cross-examined by E. D. Shattuck, on behalf of Mrs. Short (Rec., 219):

I mean by their labor as missionaries that the priests attended to their religious duties here toward all the people—whites and Indians; I mean by the expression, "missionary station," it was the priests' residence at one certain post, the place where they reside; I believe this

was a missionary station among the Indians in 1848; I mean by "among the Indian tribes" where Indians are residing—their native country; there were also over a hundred Sandwich Islanders here, when I first came in 1837; I believe that the Klickitat Indians owned the country about Vancouver in 1848; I suppose that from three to five hundred of them had their home or regular abiding-place at or about Vancouver in 1848, speaking from recollection of their different camps; I believe the Klickitats were a wandering tribe, and claimed many tracts of country in Oregon; the whites and Kanakas (Sandwich Islanders) were not as numerous as the Indians at Vancouver in 1848, by a good deal; the church services were for the whites and Indians both, free to all; I think the church building was erected by the Hudson Bay Company for the missionaries, and I understood from the agent of the company that it was a gift to the missionaries; service was first held in the church for both whites and Indians in French, and English was used too; I believe Short first set up his claim to land here in 1849; I believe I was here both in December, 1846, and in December, 1847; I believe Short came on that claim in 1847.

Affidavit of Bishop Demers in 1860, as to mission station. (Rec., 208.)

Statement of Bishop Blanchet as to mission station made in 1860. (Rec., 207.)

Deposition of Bishop Blanchet, before Tilton, surveyor general, 1860 (Rec., 228):

Francis N. Blanchet, 64 years old, Catholic Archbishop of Oregon City. I. N. Provincher, was Catholic Bishop at Juliopolis, Red River, in 1835; I am acquainted with his handwriting; the letter now handed me was written and signed by him (see "Exhibit A," the letter and

translation, vol. 4, pp. 120–124, as above); the paper now handed me, "Exhibit B," is also in his handwriting, and was written and signed by him (see vol. 4, pp. 124–183, for this paper and translation as above); I am acquainted with the handwriting and signature of Joseph Signaze, who was the Catholic Bishop of Quebec, in Canada, in 1838, and the paper now handed me, "Exhibit C," was signed by him, and the signature thereto is his genuine signature (this is the original and translation of the instructions to the witness and Demers on coming to Oregon, vol. 4, pp. 134–163, as above); I first came to Vancouver, Oregon, November 24, 1838; I came as Catholic Vicar General of the Bishop of Quebec, and I was then a priest: Rev. M. Demers came with me as a priest; he is now Bishop of Vancouver Island; we brought our written instructions from the Bishop of Quebec with us; "Exhibit C" is those instructions; I came to Oregon in 1838 to attend to the establishment of religious missions in Oregon; I and Rev. Demers did establish religious missions or stations after our arrival here; we established a Catholic mission station at Vancouver, in Oregon, in 1838, also one in Cowlitz, one in the Willamette, and visited Nesqually, Whidbey's Island, Colville, and many other places; we had a building at Whidbey's Island, and one at New Caledonia; in 1838 there were many Indians in the neighborhood of Vancouver; some belonged to the place, and some came from afar; I acted as vicar general for the Bishop of Quebec until I was appointed a bishop in 1843, as "Bishop of Philadelphia," afterwards changed to "Bishop of Drasa;" I did not hear of my appointment as bishop until the fall of 1844; from 1838 to 1844 we were engaged in missionary labor at Vancouver, Cowlitz, Willamette, Puget Sound, Whidbey's Island, the upper Columbia River, as well as the lower part of the Clackamas, among the Indians and whites; during that time we did

a great deal of missionary labor among the Indians at Vancouver; we taught them the catechism, prayers, and Catholic doctrines, baptized and married, administered to them at the moment of death, and buried Indians with Christian burial; many times when I was here I was giving instructions to Indian men, women, and children, and to Indian wives of whites; said missionary station at Vancouver was most generally kept up amongst the Indians from 1838 to the fall of 1844; there being but two priests, we were necessarily absent from Vancouver at times, but not long at a time; in 1842 two other priests, Fathers Langlois and Boldue, arrived; then we dedicated more time to Vancouver station; they have both returned to Canada; Langlois left Oregon in 1849, and Boldue about 1850 or 1852; in 1859 I saw them both in Canada; before the fall of 1844 Father De Smet and some of his colleagues established a mission among the Flathead Indians in the Rocky Mountains; I left Oregon in December, 1844, for Europe, and returned here in 1847; when I left, in 1844, the mission station at Vancouver was in existence—I think under the charge of Father Demers at that time; from 1838 to 1844 religious services were held at Vancouver in an old store inside the pickets; it was used only for Catholic services; servants of the Hudson Bay Company, their wives and children and Indians of the place and neighborhood attended those services; before 1844, I had obtained a piece of ground that was intended for the building of a church for this station; the company was not willing to sell it; it was shown me from the saw-mill west, including the present site; we were allowed to fence it, but our means would not allow us to do so; this land was east of the present Catholic Church and near an old mill or mills (see, also, Barclay as to this, vol. II, place 28, Int.), and extended thence west, but I do not recollect how far

west it came; I think the church now stands on that land; before I left for Europe I recommended Rev. Demers to build a church on that land; I think James Douglas, chief factor of the company, and Governor, in the absence of Dr. McLaughlin, showed me the land; before leaving Oregon, in 1844, I purchased a building at Vancouver from one of the company's servants for the purpose of teaching Indians and the Indian women and children of the company's servants outside of the fort; we used that building as a place of instruction of the Indians at Vancouver and in its vicinity; I think I bought that building in 1839 or 1840; I suppose it was used for the same purpose up to 1844; when I returned to Vancouver, in 1847, I found the mission station there in charge of Vicar General Demers; religious services were then held in the present church building; repairs of that building have been made of late years at the expense of the Bishop of Nesqually; there was a Catholic mission station at Vancouver among the Indian tribes on August 14, 1848; Father Delavand was appointed to the station in 1847 by me after my return from Europe; it was the same missionary station I had founded in 1838; there has been a Catholic Church and service there since then until now; in the year 1850 I ceased to exercise jurisdiction over the part of the country which includes Vancouver, when the Bishop of Walla Walla was appointed Bishop of Nesqually and came here and took possession of the place; his name was A. M. A. Blanchet; Father Delevand continued in charge of the mission station at Vancouver from 1847 until the fall of 1850; he was here all that time; the Oregon Catholic mission was sustained or supported from the first by the Society of the Propagation of the Faith, of Quebec, by a like society at Paris, in France, by subscriptions of the servants of the Hudson Bay Company, made yearly since 1842, by the products of our farm at St. Paul and the Corolitz, and

by donations by other persons; neither I nor any other Catholic priest was ever in the employ of the Hudson Bay Company in Oregon as chaplain or in any other capacity, nor had any contract or agreement with that company to act as chaplain at Vancouver, nor ever was a chaplain to the Hudson Bay Company at Fort Vancouver or elsewhere in Oregon; since my arrival, in 1838, to 1850, I was at the head of the Catholic missionaries and priests in Oregon, except those in the diocese of Walla Walla, of which Vancouver was never a part; I never knew or heard of any Catholic priest being a chaplain to the Hudson Bay Company at Vancouver; the Bishop of Walla Walla took possession at Vancouver when appointed Bishop of Nesqually, and I understood that Rev. Brouliet took the place of Rev. Delevand and Brouliet is now in charge; Delevand went from here to California and thence to Mexico; he left Oregon in 1851; I do not now know where he is; I last heard from him in the fall of 1852, that he had gone to Mexico; the statement of account now handed me, "Exhibit D," is a recapitulation of one of our accounts with the Hudson Bay Company. The words and figures in it, "By amount allowed the mission by the Hudson Bay Company, $100," mean an allowance yearly granted by that company in acknowledgment of our services rendered the company since 1842; by the tenor of a note sent me by Dr. McLaughlin, it appears that it was for the use of the mission in general; that letter is lost, but I had a copy of it made in my register before it was lost; this register contains copies of all important letters and papers relating to my diocese; "Exhibit E" is signed with my genuine signature, and contains a copy of that letter (see vol. 4, pp. 165–177, the copy of the letter being on pp. 168, 169); that sum of one hundred pounds was paid to me as chief of the mission, and was

used for the whole Oregon mission; from 1838 to the fall of 1844, when at Vancouver, I lived inside the pickets in a room of the Hudson Bay Company; I never paid the company anything for my board; I offered to pay for it; when we bought that little house we were afraid to be too much charge to the company, and I told the Governor we would live outside and pay the expenses of our living; the answer made was that we were not a burden to the company; the company and its officers were very kind and generous to us; I was Bishop of Drasa in 1846; was appointed Archbishop of Oregon City that same year—in July, I think—and first heard of it some weeks after; since the building of the present church the Hudson Bay Company has never made to me any pretension or claim of right to or ownership of the same.

Cross-examined by Mr. A. Holbrook: I can't say exactly when I first knew of the claim made to the land at Vancouver as a mission station; I knew it was not to be claimed as long as the Hudson Bay Company was in possession of it; in 1848 the mission was in possession of the land where the church is; it got it from Mr. Douglas, who showed me the place, at my request, that we might have a more established place; the mission never acquired any right to that land, except by consent or permission of Mr. Douglas, and there was no other way; we did claim to exercise ownership over any part of the land, except that on which the church was built, and we expected a deed from the Hudson Bay Company when it could give one; in 1848 Rev. Delevand resided inside the pickets of the Hudson Bay Company, and in the same place in 1849 and until he left; before 1850 no priest lived anywhere about Vancouver except inside the pickets; I do not remember the name of the man from whom I bought the

small house; it was west of the fort; I think the company did not own the buildings occupied by its servants; they belonged to the servants and they sold them; I did not buy any land with the house; I bought the house; I suppose the company knew I bought it; the Hudson Bay Company or Mr. Douglas erected the church; I paid nothing for its erection; no expense was incurred for the establishment of the mission before August, 1848, for the church, or support of the priests, or fuel, by anyone except the Hudson Bay Company; the mission provided church furniture for service, but nothing else; I heard there was a little house attached to the church leased, in 1849 or 1850, to Lieutenant Denman; it was built for the lodging of the priests, but not being finished, Father Delevand could not lodge in it; I could not say who owned it; Mr. Douglas built the church; I can't say when I first heard of the intention of the Bishop of Nesqually to claim this as a missionary station; I was gone from 1855 to 1857, and don't recollect that I heard of it before I left; we had a mission at Oregon City in 1848; we had a church and progerty there; the Indians were taught or instructed in the Chinook "Jargon" and in the French to some of the Indian women; the "Jargon" was the common language in which all intercourse between the whites and Indians was conducted; the books, catechisms and vestments for the church and priests, and matters of that kind, were provided by the mission, at its cost, by the Oregon mission; from 1838, from time to time, presents were made by the priests to Indians at Vancouver; they were bought and paid for by us; we bought them of the Hudson Bay Company; the account for them was to and with the Oregon mission.

In the account, "Exhibit D," in 1845, there is a charge No. 3: "Vancouver Mission, 8 pounds, 1 shilling, 3 pence." (Rec., 244.)

For further accounts ofthe mission with the Hudson Bay Company, from 1839 to 1842, place J. to K. which shows subscriptions by officers and servants of Hudson Bay Company to support of the mission and balance of account sent to Red River for payment. (Rec., 278 *et seq.*)

Appellant's attorneys claim that the foregoing, together with the evidence in addition, taken before the surveyor general in that ordered contest in 1860 and produced by defendant in this suit, not only justifies the finding and decission of the Surveyor General Henry, made in 1862, in favor of the mission, as to its rights to have the 640 acres of land claimed under the act of August 14, 1848, but it is also apparent that the whole matter of the opposing claims was thoroughly investigated at that time, and therefore the finding of fact made by the department as to the existence of the mission at Vancouver for the years previously to and on August 14, 1848, is in the nature of a judical determination, and under the decisions of this Court, above referred to, is conclusive. (And see Freem. Judgt., Sec. 524; Brown Juris., Sec. 23.)

On November 10, 1862, and before Surveyor General Henry's report and accompanying evidence was received at Washington, Commissioner Edmunds reversed the finding of Henry and decided that the mission did not exist, and was not entitled to the benefit of the granting act. (Rec., 480.)

That decision of Mr. Edmunds, the Secretary of Interior, refused to confirm for the reasons set forth in his letter of April 19, 1863. (Rec., 486).

Thereupon the Commissioner, by letter of April 13, 1863, instructed the surveyor general to forward "imme-

diately" a certified transcript of all papers in the hearing and adjudication of Vancouver Catholic Mission, etc. (See Vol. 9, place 8.)

The surveyor general complied as shown by his letter of April 29, 1863. (Rec., 488, *et seq*).

Whereupon Commissioner Edmunds affirmed his former ruling by his decision of October 16, 1863. (Rec., *sup.*)

From that decision the mission appealed. (Rec., *sup.*)

The matter then seems to have laid dormant until 1871 or 1872, when it was referred by the Secretary to the Attorney General for his opinion and advice. And the Assistant Attorney General, Hon. W. H. Smith, furnished the same under the date January 29, 1872, which he reaffirmed the existence of the mission upon the land in controversy on August 14, 1848, and long prior there, as a matter of *fact*, but concluded, as a matter of *law*, that the mission was entitled, under said granting act, to only so much land as was covered by its church edifice and its appurtenances, being less than half an acre of ground, and that ruling has ever since been adhered to by the Department of the Interior, as shown in the complaint and admitted by the answer, and is the foundation of this litigation (p. , *sup.*).

The exhibits to Dr. Barclay's depositions (Rec., 515–523) show that the mission had an account with the Hudson Bay Company, amounting to over seven thousand pounds sterling and the payment of much of it, taken in connection with the testimony of plaintiff's witness, Bolduc (Rec., 270), showing $10,520.63, contributed from Quebec between April, 1838, and December, 1848, together with the evidence in place, twelve of the contribution by the society for the "Propagation of the Faith"

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Whereupon Commissioner Edmunds affirmed his former ruling by his decision of October 16, 1863. (Rec., *sup.*)

From that decision the mission appealed. (Rec., *sup.*)

The matter then seems to have laid dormant until 1871 or 1872, when it was referred by the Secretary to the Attorney General for his opinion and advice. And the Assistant Attorney General, Hon. W. H. Smith, furnished the same under the date January 29, 1872, which he reaffirmed the existence of the mission upon the land in controversy on August 14, 1848, and long prior there, as a matter of *fact*, but concluded, as a matter of *law*, that the mission was entitled, under said granting act, to only so much land as was covered by its church edifice and its appurtenances, being less than half an acre of ground, and that ruling has ever since been adhered to by the Department of the Interior, as shown in the complaint and admitted by the answer, and is the foundation of this litigation (p. , *sup.*).

The exhibits to Dr. Barclay's depositions (Rec., 515–523) show that the mission had an account with the Hudson Bay Company, amounting to over seven thousand pounds sterling and the payment of much of it, taken in connection with the testimony of plaintiff's witness, Bolduc (Rec., 270), showing $10,520.63, contributed from Quebec between April, 1838, and December, 1848, together with the evidence in place, twelve of the contribution by the society for the "Propagation of the Faith"

of Paris, France, of 143,960 francs to the support of the Oregon mission, shows from what sources the mission derived its support. And for further accounts with the mission in 1840–41, see Rec., 593.

The map of the mission claim, as surveyed in 1862 with field notes, is found in Rec., 495.

It appears from the documentary evidence that donation land claims were taken by Wm. Ryan and Short's widow and heirs upon land adjacent to the land in controversy, and which was equally under the jurisdiction and in the possession of the Hudson Bay Company, as was the land sued for here, and for which patents have been issued, the claimants dating their residence and four years occupation between 1847 and 1853, while the Hudson Bay Company's license did not expire until 1859. See Barclay, Int. 4 and Ans. to attorney for Short's heirs. (Barclay's dep., above cited.)

It is, therefore, difficult to conceive of any valid reason for holding that if the Hudson Bay Company right of possession during the existence of its license did not stand in the way of or prevent those settlers from establishing such rights by their occupancy of their land claims, such possessory right of the Hudson Bay Company should defeat this mission claim.

It is shown by the evidence of Chamberlain, and other of the witnesses, that the Hudson Bay Company had much of the land fenced and in cultivation, and their corrals upon the land adjoining that in controversy in this suit, upon which Wm. Ryan took his donation claim, by proof of occupancy thereof by him as a settler between 1847 and 1853. (Rec., 115.)

As to the mission school-house and cemetery, see affidavit of Joseph Petrain, made in 1873. (Rec., 206.)

That Bishop Blanchet claimed this land in 1851 under the act of Congress of August 14, 1848, see Col. Bonneville's letter. (Rec., 695.)

That only the small addition to the church, and not the church itself, was occupied by Lieut. Denman, and it was rented to him by Gov. Ogden, who is shown throughout to have been an enemy of the mission.

That the priests instructed Indians at Vancouver. (Barclay's dep., noted above.)

That James Douglas and not the Hudson Bay Company claimed the land in controversy in 1846 (Barclay, cross-int., 2 to 8), by Farrar, for the mission. And that Douglas pointed out quite a large parcel of land to Bishop Blanchet as given to the church. (See Blanchet's and Barclay's depositions above.)

Among the causes which led to the rejection by the Land Department of the mission claim to the land in controversy, will be seen a remonstrance of citizens of Vancouver. (Rec., 588, *et. seq.*)

Mr. Lloyd Brooke and General Ingalls, who testified before the referee, were both witnesses and testified for the Government in the ordered contest. (See those depositions, Rec., 349 and 405.)

That the missions were necessarily located immediately in the neighborhood of the Hudson Bay Company's establishments to reach the Indians in numbers as they assembled there, also as to several bands. (See G. Simpson's evidence before the House of Commons, Rec., 552.)

For map of survey and field notes of the mission claim at Vancouver, as originally made and as subsequently reduced, and the decisions of the commissioner in connection therewith, and the appeals therefrom, see also large map, Record noted above.

The following testimony of such living witnesses as can now be discovered, touching the matters in controversy in this action, was taken in plaintiff's behalf by deposition, and before the referee.

The deposition of Antoine Langlois (Rec., 259): My name is Antoine Langlois; am 75 years old; reside in Martinez, California, and am chaplain of the Christian Brothers in said town; I have been a priest about forty-nine years; I have been at Vancouver, W. T., many times; was first there in September, 1842; I went there as a missionary from Quebec, Canada; I went in a ship from Boston around Cape Horn to Vancouver; the journey took a year; Father Bolduc, a Catholic priest, accompanied me; he was also a missionary, and we went there to convert the people to religion; the expense of our journey was about sixteen hundred dollars, and the money was furnished by the society fort he propagation of faith; the Hudson Bay Company had no connection with our going, though we understood they desired religion established in the country; the company made a demand of the clergy of Quebec that missionaries be sent there; none of the expense of our journey was borne by the Hudson Bay Company; I remained in the Oregon country, west of the Cascade mountains, about seven years; I was at St. Paul, in the Willamette Valley, at Cowlitz, and several other places; I can not say how long I remained in the several places, as I was almost constantly moving from place to place in the discharge of my duties; sometimes I would stay a year or more in one place; I was engaged in instructing the Indians and whites in religion; I was at Vancouver about one-fourth of that time; I was constantly moving about; while I was at Vancouver I attended to the mission; about one hundred people resided at Vancouver then, mostly whites, and a few Indians; some of them were half-breeds; there may have been two hundred; there were no white married women among them; a good number of the white men married Indian women; several of such marriages had taken place before I went there, and quite a number afterwards; there were very

few white people in Oregon west of the Cascade mountains then, and they were mostly in the employ of the Hudson Bay Company; they were Canadians, Scotchmen and a few Irishmen; there were quite a number of Indians there, quite a large number; the Indians frequently visited Vancouver, probably two thousand, while I was there; they came at various times and in small parties; they came principally to trade, and at the commencement to receive religious instruction; the Hudson Bay Company had an enclosure at Vancouver there, within which there were three or four houses, wooden buildings, and probably two stores; the priests also had a chapel within the enclosure; several men belonging to the company had small houses outside the enclosure; there were two priests in Oregon, west of the Cascade mountains, when I arrived there, F. N. Blanchet and Modeste Demers, both of whom were afterwards bishops; a few weeks after I arrived I saw Father Blanchet at Vancouver; about a year or two afterward some Jesuits arrived in the country and I frequently met some of them at Vancouver, several times a year; I can not remember all their names, but can mention Fathers DeVos, Nobile, and Goets; they were all engaged in helping on the mission; they were there to christianize the Indians and to have the white people live up to their religious duties; they also established several schools; there were no religious ceremonies or services at Vancouver other than instructing the Indians and baptizing them occasionally; those services were sometimes performed in the chapel and sometimes elsewhere; I had a mission at the Cascades, in Oregon, about a year after I arrived, also at Cowlitz some three or four years after; my labors consisted in doing all I could to convert the Indians to Christianity and in doing all I could to help them, both in body and soul; there were several Catholic missionary stations then in Oregon west of the Cascade

mountains, as follows: St. Paul, Cowlitz, and Fort Langley, besides Vancouver; the priests had several places which I do not remember; a missionary station among the Indians was a place that we could reside in and use as a headquarters for the purpose of instructing the Indians and hold mass and use generally for the purpose of advancing the religion; I know of no difference in the meaning of the term "missionary station among Indians," as used by missionaries and as used by other people; the priests then in Oregon, west of the Cascade mountains, were supported by the Society of the Propagation of the Faith; I know of no other support they received; I cannot state the amount, but the society always provided sufficient funds to carry on the work; the priests also, at times, cultivated the lands; I can not state exactly how often aid was received from the society; it was necessarily irregular, but to the best of my recollection it was about once a year; those priests went to Oregon and labored there by the authority of the Archbishop of Quebec; the Jesuit priests probably received their authority from Rome; none of them were under the authority or control or in the employ of the Hudson Bay Company; the company had no authority or control whatever over any of them; the services at Vancouver were held in an old house, which was used as a chapel; they were the usual Catholic ceremonies; the persons present were generally the priests and the Catholics residing in the neighborhood; I conducted mass there, baptized people, and did all such duties as are required by the Catholic religion, in the chapel at Vancouver, before mentioned, in the fall of 1842, and during the years 1843, 1844, 1845, 1846, 1847, and 1848, and afterwards; probably these services averaged once or twice a month during the period above mentioned.

Cross-examination: I am and was at the time I resided in Oregon a secular priest of the Catholic Church; there

was a Catholic missionary station at Cowlitz on and prior to August 14, 1848; Fathers Blanchet and Demers organized and had charge of it; I afterwards had charge of it; there were several other stations; sometimes Father Blanchet had charge of them and sometimes Father Demers.

Deposition of J. B. Z. Bolduc (Rec., 270, *et seq.*): Age, 69 years; residence, city of Quebec; am Proctor of the Cardinal Archbishop of Quebec since 1867; on September 15, 1842, I arrived at Fort Vancouver, on the Columbia River; I went there then to visit the Rev. N. Blanchet, my ecclesiastical superior, and be appointed by him to the place which I was to fill as a missionary; I came from Quebec to Oregon by way of Boston, thence to Astoria *via* Valparaiso, Chili, and the Sandwich Islands, in company with Rev. Antoine Langlois, who also came as a missionary; the expense of our journey was sixteen hundred dollars, and it was defrayed by the Society for the Propagation of the Faith; the Hudson Bay Company had no connection whatever with my journey, and even charged Mr. Langlois and myself one hundred any forty-four dollars for our passage on their vessel from Honolulu to Astoria; no portion of our expenses was borne by the Hudson Bay Company; I then remained in Oregon, west of the Cascade mountains, from 1842 to September, 1850, about two years at Cowlitz and Vancouver Island, and the balance of the time at Willamette settlement; I was engaged in missionary work; I visited Vancouver three or four times a year to take my instructions from Messrs. Blanchet and Demers, my ecclesiastical superiors; I was not engaged on missionary or other work at Vancouver, having only gone there to receive my instructions; it is difficult to say exactly how many people resided at the fort; sometimes 400, of whom 100 were in the service of the Hudson Bay Company

and the balance were Indians and half-breeds; at certain seasons of the year there were many more people, who came for trading purposes, or for the provisioning of distant posts; there were no married people at Vancouver when I first arrived there; there were no white women there then; some of the employés of the Hudson Bay Company were married to squaws or half-breeds; there were a few Scotch and Canadian settlers, and their offspring by squaws, who were, of course, half-breeds, but the greater part of the population was Indian; at Willamette settlement the Indians were few in number, but were more numerous at the place, where now is Oregon City, also at Fort Vancouver and Cowlitz; at Vancouver Island and Whitdby Island they were in still greater numbers; on my visits to the Rev. N. Blanchet I noticed a large number of Indians at Vancouver; they came for religious instruction and for traffic in furs; there were buildings inside the fort for the officials of the Hudson Bay Company; the servants and other employés, as well as Indians, had houses outside the fort; there were no priests in Oregon except Messrs. Blanchet and Demers when we first arrived there; subsequently the following priests came from Europe, viz.: Le Bas, Jayot, Prétot, Delevane, Mesplier, and Delonne, also several oblate fathers for the Nesqually mission; on arrival I saw the Revs. Blanchet and Demers and visited them two or three times a year, and they were engaged in their missionary work; after the elevation of Mr. Blanchet to the episcopate he was succeeded by Mr. Delevane, whom I saw there performing missionary work at Vancouver; all the priests whom I have named were engaged on missionary work, when I saw them in that country; the religious services of the Catholic Church were held among the Indians at Vancouver, while I was there in that country, and these services were performed by Messrs. Blanchet and Demers prior to 1848; the Hudson Bay Company had given

the missionaries, for a temporary chapel, the use of the old house in the fort, which had been abandoned by the company; the missionary labor in which I was engaged while in Oregon, was the usual work of a missionary, instructing the Indian children, the half-breeds, Canadians, and a few Irish, in the Catholic faith; there were Catholic missionary stations at Cowlitz, Willamette, Nesqually, and Fort Vancouver and at the falls of the Willamette river, also at Walla Walla; a missionary station is a place at which a missionary resides occasionally, and from which he goes about within his district to administer religious instruction to the Indians; I do not know of any difference in the meaning of the term "missionary station among Indians," whether used by missionaries, or by other people in general; the Society for the Propagation of the Faith established at Quebec and also in France, paid the missionaries' expenses, and the settlement also contributed towards their support; the missionaries at Cowlitz and at Willamette were almost entirely supported by the Catholic settlers and by the yield of their own farms; the Hudson Bay Company sold us our provisions at high rates and we paid them with wheat at the rate of sixty cents per bushel; the records of the Council of the Society for the Propagation of the Faith at Quebec give the amounts granted by such council, but I can not say what sums were granted by the council of the same society established in France; the records of the latter are at Lyons in France; the records of the Council of the Society for the Propagation of the Faith, Quebec, are at the Archbishop's palace at Quebec; I have access to said records at all times; the following are extracts from the records aforesaid at Quebec, now taken by me from the official records on deposit at the Archbishop's palace, Quebec, and to which I have, as above stated, access at all times; the following amounts were voted by the Council of the Society for the

Propagation of the Faith, Quebec, for the missions west of the Rocky mountains on the Pacific Ocean (here follows list of contributions from April 17, 1838, to December 21, 1848, aggregating $10,520.63, as above stated); in 1843, Rev. N. Blanchet was raised to the Episcopate and the Council of the Society at Lyons, France, gave him considerable sums that year and the following years to build churches at Willamette, Oregon City, and Fort Vancouver; a citizen of Montreal gave him $2,000, and another gave him $3,000, and he received in addition considerable sums from the faithful of the dioceses of Quebec and Montreal; some time subsequently a society in Belgium, founded for assisting missions, sent him church ornaments of considerable value; the records referred to at Quebec can be consulted at any time, but can not be removed; under the authority and control of Rev. N. Blanchet, as superior of the missions, and subsequent to 1843, under his authority and control as bishop, the priests in Oregon did their work; they were never in the employ of the Hudson Bay Company; that company nor its officers never exercised any control over the said priests or missionaries; Catholic religious services were held at Vancouver in the old house above referred to by Messrs. Blanchet and Demers; they were the usual services of the Catholic Church and were attended by the Catholic servants of the Hudson Bay Company, by the Indians and by Catholics in the vicinity of the fort; I never conducted services at Vancouver; I am not a Jesuit, but am a secular priest, and a member of the Catholic Church; I preached and taught at Cowlitz for about two years, the Rev. Langlois for about one year; the Rev. Blanchet at Willamette for three or four years, when I took charge of Willamette Station and Mr. Blanchet went to Fort Vancouver and Mr. Demers to the falls of Willamette River; the Rev. Langlois was at the Willamette settlement a

short time with me; Nesqually was ministered to by Rev. Blanchet, Demers and myself, one or the other, as occasion required, especially for sick calls, until the arrival of the Oblate Fathers; after Rev. Blanchet was raised to the Episcopate he was succeeded by Rev. Delevand at Fort Vancouver; these stations were organized previous to my arrival; can not give the date or year; they had farming lands at Cowlitz and Willamette settlements; at Cowlitz, 160 acres, and at Willamette 320 acres; the buildings at each place consisted of a chapel, a house and outbuildings and at Willamette settlement in addition, two school houses, one for boys and one for girls. (Rec., 99 *et seq.*)

August Rochon: Age, 74 years; residence, Lewis County, W. T.; farmer; first came to Vancouver in November, 1838; came with two priests, F. N. Blanchet and Modeste Demers, from Montreal, Canada; I was hired by those priests; we came overland across the continent; I don't know who paid the expenses of the trip; F. N. Blanchet had charge of our party; there were, I think, over one hundred persons in our party; there was a boss of the company in charge of the whole business; Blanchett paid me $100 per year; I never was in the employ of the Hudson Bay Company; I then remained at Vancouver two weeks, during which time the priests held mass there, in the fort; the people of the company, the Canadians and I don't know who else, were present at the mass; there were Indians present at every mass; the priests spoke to them, through an interpreter, of religion; the priests spoke French and the interpreter Jargon; the priests during that two weeks also baptized some, principally children, and some grown persons, principally Indians; marriages were also performed of white men to Indian women; I saw no white women here at that time; I then went from here to

Cowlitz; there were then at Cowlitz only three white settlers outside of the Hudson Bay Company; they were from Canada; there were plenty of Indians then, at and near Cowlitz; the priests, on arriving there, began immediately to instruct the people; the priests located about a quarter of a mile from the Hudson Bay Company's establishment at Cowlitz; the Hudson Bay Company had a few log houses there, and a trading post, but no fort; the clerks and manager lived in the houses mentioned; Mr. Todd was the manager; one of the priests went to Cowlitz and the others staid here at Vancouver; Blanchet went to Cowlitz; I took an ax and went into the woods to make rails to fence a piece of land to sow; the Hudson Bay Company first gave the priests a strip of land six acres wide and found fault with me if I made rails outside of that limit, but afterwards gave more land to the priests; Joseph McLaughlin, the Hudson Bay Company's clerk, and I measured the land by stepping it; the first year I fenced in about twenty acres and plowed and sowed it in peas and wheat, getting seed from the inhabitants there, who belonged to the Catholic Church; I boarded with a settler; the Hudson Bay Company gave me no assistance; Mr. Blanchet boarded with a settler also: the Hudson Bay Company exercised no authority or control over the priests as to where they should go or what they should do; I remained at Cowlitz over two years, from December to March, two years after; I was at Vancouver two or three times a year during that time; I came to the blacksmith shop, store, and mill at Vancouver, bringing wheat to the mill and taking flour back; during those two years, in the summer, Mr. Demers used to go up north toward Frazer river—in the winter he would come to Cowlitz; I never came to Vancouver during that time on Sunday; when I left Cowlitz I came to Vancouver with the Indians, and then went to Oregon with one of the managers

of the Hudson Bay Company; I was hired by the priests, and worked three years for them in Oregon; Mr. Demers was sick the first winter after we arrived here, and Mr. Blanchet only traveled then, and it was about the next April that Demers came to Cowlitz; I married in 1842—was married by Pather Blanchet; the priests—during the two years I was at Cowlitz—received provisions from the settlers; I have no knowledge of their getting money; I gave them $20 a year of my wages; after going to Oregon I came back to Vancouver whenever the priests had need of me—the last time I came back was in 1845, I think; there were none but these two priests in Oregon when I got married; I don't remember how long it was before other priests came; Fathers Bolduc and Langlois came during the five years I worked for the priests; one of them went to Cowlitz and the other to Oregon, and came to the fort here at Vancouver; during that time I often went with Mr. Blanchet on missionary tours around here, and up to the Cascades, and below to the Chinook Indians; he was instructing the Indians; taught them their prayers and baptized them; there was a cemetery here at Vancouver at that time; I saw it, and was in it; there were Catholic graves in it, and I saw the priests bury one person there; the Catholic graves were marked by crosses, some had rocks to mark their graves; not much ceremony here at that time; the settlers at the Cowlitz had been, but were not in the employ of the Hudson Bay Company when I went there; the company told them to come and take land there; Blanchet and Demers were the first priests; they remained here as they remained everywhere; they did not come alone for Vancouver, but for the whole country; Father Delevan was the first priest who remained the most of his time at Vancouver while I was working for Blanchet; I returned to the States in 1850; there was then no Catholic church nearer to Cowlitz

than Vancouver; it took us three or four days to make the trip between those points in canoes; the nearest church in Oregon to Vancouver, in 1850, was at Oregon City; I don't know the distance from Oregon City to Vancouver; there were many Indians here at Vancouver when I first arrived here; they resided everywhere along the river; the priests considered their headquarters between 1838 and 1850 as being at Vancouver; they were oftener here than at other places; I don't think there was in Oregon, in 1850, any Catholic church except those at Vancouver, Cowlitz, and Oregon City, and St. Paul; the Hudson Bay Company had two mills down the river from St. Paul, and stores in Oregon City; while I was at Cowlitz, Blanchet and Demers were each in turn at Vancouver; there was always some priest here at Vancouver after Bishop Blanchet came back from Rome, until I went east; Blanchet made St. Paul his stopping place after he went there, but was always going out on missions among the Indians, and here at Vancouver; he would be absent on missions three weeks or more at a time; he went often.

Mary Proulx, an Indian woman (Rec., 112 *et seq.*)

Live two miles below Vancouver; I was married in the Catholic church at Vancouver, this old church here, while the Hudson Bay Company was located here; the church was outside the fort; the ceremony was performed by Father Blanchet, who is now dead; I was married to Charles Proulx; I am a Chehalis Indian woman; I was twenty years old when married; it was ten years afterward before I had any child; my oldest child is about thirty-two years of age; I lived, when married, between where that church is and the river; a man named Findley, and Charles Baron, and Charles Pifil built the church; Father Demers preached in it first; before that he traveled all around and preached to the

Indians and Canadians; before the church was built he preached inside the fort, where he used to stop; he instructed the Indians and baptized them, and when he found Indians who were poor he helped them, and brought them to his house even; he taught them not to steal, not to do any harm to anyone, and when anybody asked them for anything to eat to give it to them; when the priest taught nearly everybody went to church—all the Indians and small children; the priests treated the Indians well, and all the Indians liked the priests, but the Americans did not treat the Indians well; the priests taught the Indians at other places beside the church, on the other side of the river, in the woods, and all around everywhere; I always went to the church here on Sunday; when the Indians came here to trade they camped all around Vancouver; it was woods then; the first clearing was up where the fort was; the priests went around among the Indians here and talked and preached; they took an interpreter along and talked to him, and he to the Indians; Father Blanchet or Father Brouliet stopped here at Vancouver; Father Demers did not stay here long, nor all the time; he went up to the Hudson Bay Company, up toward Victoria.

Cross-examination: Before the church was built the priests stopped in a house of the company when they preached inside the fort; they ate in a little house where they were staying in the fort, near the room where they preached; they preached in the fort; they did not eat in the room where they preached; the Indians who traded here were principally of the Cascade and Klickitat tribes, the Willamette Indians and the Indians living up the Columbia River, above the Cascades; the Klickitats lived over the Cascade Mountains, and at Camas Prairie; the Cascade Indians lived on the other side of the Columbia River, and from the last falls down to the Will-

amette, and in winter, here, as well as on the other side of the river; the Willamette Indians lived near where Portland is, and up along the Willamette River; when the Indians came to Vancouver they traded with the Hudson Bay Company, sold them all kinds of furs and fish; the company traded to them blankets, beads, bracelets, and everything they wanted to buy—sugar, molasses, flour, and coffee; Charles Proulx was in the employ of the Hudson Bay Company as a voyager and guide; I am a member of the Catholic Church, and have been for a long time; I am a native Indian, but was raised by the Canadians since I was small, and therefore speak French; the old Lanzier family, who had a farm on the Willamette River, raised me; my sister was married to the man who raised me; she was also married in the church I was married in, but she was married first.

It is shown elsewhere that the priests on arriving here required the Canadians who had been living with Indian women as their wives to lawfully marry them according to the ceremonial of the Catholic church.

Plaintiff also offered in evidence the following pages of the book entitled "Oregon Missions," published in 1847 at New York, by Edward Dunigan, and written by Father DeSmet in 1845 and 1846, before the act of Congress of August 14, 1848, was passed, and therefore could not have been written with a view to any such controversy as this. It asserts repeatedly the existence of the Vancouver Mission station. (See the first 50 pages inclusive, and also pages 96 to 99 and 228.)

The testimony of F. A. Chamberlain (Rec., 115, *et seq.*), and of Joseph Joset (Rec., 158); of Joseph St. Germain (Rec., 57); of Marcel Bernier (Rec., 71); of Catherine Petrain (Rec., 83); and of Hugh Byrne (Rec., 94), are simply corroborative of the testimony of witnesses which

has been presented as above, and of the evidence given in the contest before the surveyor general in 1860, as to the location of the mission in Vancouver, and its existence there from 1838 until after August 14, 1848. They are witnesses for plaintiff before the referee.

The testimony of these several witnesses, and that of witnesses Daniel Harvey, (Rec., 537), Archibald McKinlay (Rec., 540), clerk of the Hudson Bay Company, Frederick H. Ramsey, Lloyd Brooke, and Rufus Ingalls (Rec., 304–314), and of W. H. Dillon (Rec., 547, *et seq.*), taken in that contest before the surveyor general, and introduced by defendants from the files of the Land Department, show conclusively that this whole question of the existence and rights of that mission was fully and exhaustively investigated and explored in that contest; that there was neither fraud or falsehood resorted to by the mission claimants to obtain or influence the finding of the Department that there was such a mission as is mentioned in said act of Congress of August 14, 1848, upon the land in controversy on that day, and from 1838 up to that time. That finding of fact is therefore conclusive.

(Record, *sup.*)

It appears from the allegations of the complaint, the admissions in the answers, and the proofs, in this case, that the public surveys were not extended over the land in controversy until after September 29, 1859. That, in 1853, Bishop Blanchet, acting on behalf of the Catholic church, filed with the surveyor general of Oregon his official notification of the claim of said church to 640 acres of land under said act of Congress of August 14, 1848, of which the land in controversy in this suit forms

a part; and that promptly upon the expiration of the Hudson Bay Company's aforesaid license, said bishop asked for an official survey of said 640 acres of land. That thereupon the Commissioner of the General Land Office instructed the surveyor general, by letter of September 29, 1859, to "proceed to extend the lines of the public surveys over the tract of country in question when the aforesaid privileges (of the Hudson Bay Company) have become extinct, and make regular returns of surveys, and transmit approved township plats thereof, laying off the mission on the principles laid down in the 6th section of the act of Congress, approved 27th September, 1850 (U. S. Statutes, vol. 9, p. 498), and appropriately representing it on the plat of the township in which the same may be situated, and will, of course, properly designate on the official plats the tracts reserved by the United States for military or other purposes;" and that "such provision (proviso) is understood to grant 640 acres to each separate and distinct missionary station referred to, and a like provision is made in the act to establish the territorial government of Washington." (See copy of letter in evidence as Plaintiff's Doc. Ev. Ex.) The act of Congress, September 27, 1850, referred to by the Commissioner, is commonly known as the donation law, in Oregon and Washington Territory.

It is an undisputed and indisputable fact that if the church took any of this land under said act of August 14, 1848, it became and was the owner thereof several months before a soldier of the United States put foot upon it, and it needs no argument, therefore, to make plain the proposition that the War Department could not thereafter declare any part of it to be a military reservation. The title thus vested in the church could only be divested by proper proceedings in the courts to condemn

and appropriate the land to needful military uses and purposes.

Fifth Amendment to U. S. Constitution;
United States *v.* Tichenor, 8 Sawyer, 152;
Morrow *v.* Whitney, 95 U. S., 555–556;
United States *v.* Lee, 106 U. S., 218, 223;
San Francisco Sav. Union *v.* Irwin, 28 Fed. Rep., 710, 715;
United States *v.* Fitzgerald, 15 Peters, 421;
Wilcox *v.* Jackson, 13 Peters, 513.

If, therefore, the Catholic church took the land in controversy by virtue of such grant contained in the proviso of the act of Congress of August 14, 1848, the above last-cited authorities effectually dispose of the claim of the Government to hold the same land as a "subsequently declared military reservation;" and this controversy is narrowed down to the question whether the right of occupancy of the land by the Hudson Bay Company on and prior to August 14, 1848, was such as to preclude the Catholic church from obtaining title to it by its occupancy of it at the same time as a missionary station among the Indian tribes of the Territory; and this question we propose hereafter to discuss. The first authority to declare a "reservation" in the Territory is contained in section 14 of act, September 27, 1850, The Donation Law.

We return now to our showing that the Land Department has uniformly found and held that as a matter of fact the Catholic church did have, on August 14, 1848, and for ten years previously had maintained such missionary station upon this land; and that for more than twenty years after the passage of said act, the same was construed by said Department as entitling said church to 640 acres of land upon which the said mission station was so located.

It appears from the pleadings and proofs in this case, that the surveyor general of the Territory, acting in obedience to the above-quoted instructions contained in the Commissioner's letter of September 29, 1859, proceeded to extend the public surveys over the section of country within which the township, including the land in controversy, is situated, and made a plat of the said survey, upon which a tract of 640 acres of land was designated as being the land pertaining to said missionary station of the Catholic church thereon. Said survey and map thereof also represented the overlapping of the pretended military reservation, as shown by copy of said map, "Exhibit A," to the complaint. This point is not denied by any of the defendants in their answer, and is sustained by the evidence.

It appears from the report of the surveyor general, Anson B. Henry (Rec., 171, *et seq.*), that about this time, on the 19th December, 1859, the Hon. I. I. Stevens, delegate to Congress from Washington Territory, addressed a communication to the Commissioner of the General Land Office, protesting against a confirmation to the St. James mission of the tract of 640 acres claimed by it, and asking that the claims of the mission and of the United States military reservation at Fort Vancouver, the town of Vancouver, and of Mrs. Short, and the heirs of Amos M. Short, a donation claimant (all of which claimed to have rights in the tract claimed by the mission) might be passed upon.

From this time forward, the church had two formidable hosts of opponents in the field, one composed of soldiers and the other of politicians; a combination "more terrible than an army with banners," more to be feared than Cæsar with his Tenth Legion.

It appears from the Commissioner's letter of September 29, 1859, to the surveyor general, that the possessory

rights of the Hudson Bay Company upon the land expired in May, 1859. And yet while holding that possessory right prevented and precluded the Catholic Church from claiming to be, on August 14, 1848, in the occupancy of 640 acres of land, because it was at the same time occupied by the Hudson Bay Company under its license, we find the Land Department granting a patent under the donation law for 640 acres, to this Short's widow and heirs, including a part of this same 640 acres so occupied by both the church and the Hudson's Bay Company, which patent was founded upon the notification and proofs (Rec., 578), from which it appears that said donation claimants alleged settlement upon this land March 8, 1848, and four years continued residence thereon until January 19, 1853. Similar action was also had by the Land Department in the case of Wm. Ryan, another donation claimant, who alleged settlement October 12, 1849, upon another portion of the land so occupied by the Hudson Bay Company, lying immediately east of and adjoining the 430 acres in controversy in this suit, and his continued occupancy thereof as such settler for the four years ending August 16, 1853. It appears from the evidence of Francis A. Chamberlain, and other witnesses in this case, that the fields fenced and cultivated by the Hudson Bay Company extended up the Columbia River easterly for nearly two miles above the fort and church and included all the bottom land on Ryan's donation land claim.

The license of that company did not expire until May, 1859. Ryan and Short's heirs all claimed as "settlers or occupants" of such land, under the act of December 27, 1850, for four years, which term expired six years before the right of occupancy of the Hudson Bay Company had terminated, according to its license.

We, therefore, ask any candid mind to invent a plausible reason why these donation claimants could "occupy"

portions of this land jointly with the Hudson Bay Company, so as to obtain title from the Government to the 640 acres of land granted by section 4 of the act of September 27, 1850, while at the same time the Catholic church could not occupy, by its missionary station, another portion of the land, jointly with the Hudson Bay Company, so as to be entitled to the 640 acres of land confirmed to such church by the "proviso" to section 1 of the act of August 14, 1848.

But we return again to our recital of the action of the Land Department concerning the land in controversy. Actuated, as it would appear by this protest from Delegate Stevens, the Commissioner addressed to the surveyor general of the Territory a further letter, dated December 19, 1859, instructing him to call upon the said several claimants of this land, the military authorities included, for all information possessed by them upon which their several claims were based, and saying: "When the Record is made complete you will make your report, showing your decision upon the merits and extent of each of said claims, with an illustrative map."

The surveyor general accordingly, as shown by a copy of his report filed in evidence by the plaintiff, "after due notice to the respective claimants, * * * offered an opportunity to file all documents, furnish testimony and make out their respective claims; in addition to which arguments of counsel were made, and each claimant, by his attorney, filed said arguments as a part of the Record in this case.

This report of the surveyor general is a more able and exhaustive argument than we ourselves are able to make, and we therefore adopt it as showing, upon a full and fair investigation, the undoubted right of the Catholic church to the land now in controversy between the

parties to this action. As showing a summation of his decision, in so far as the rights of the present plaintiff are concerned, we quote from the concluding portion of his report as follows:

"After a thorough examination of the matter presented, and a diligent investigation of the law and evidence adduced in this trial, I have conscientiously, may I say somewhat reluctantly, been forced to the conviction that the grant of 640 acres of land made to missionary stations by the organic act of Oregon (the act of August 14, 1848), vested in the mission of St. James the absolute fee and title to a tract embracing their improvements."

This report and the decision of the surveyor general, bear date ————, 1862. The Commissioner, however, refused to confirm this report, or to approve of such survey, and an appeal was taken to the Secretary of the Interior, who declined to act upon the appeal, as appears from a copy of his decision dated July 20, 1864, "Exhibit C" to the complaint.

In 1871 the matter was again pressed upon the Secretary for a determination, and he referred it to the Attorney General for his opinion and advice; and on January 29, 1873, Mr. W. H. Smith, Assistant Attorney General, furnished to the Secretary his written opinion, a copy of which is filed with the complaint as "Exhibit D," and is admitted by the answers of defendants to be a true copy thereof. In fact, all the exhibits filed with the complaint are admitted by the answers to be true copies of the originals, as in the complaint alleged.

In this opinion of the Attorney General, the fact is still admitted, that the Catholic church did maintain a missionary station among the Indian tribes upon a part of the land in controversy in this suit, from 1838 until after August 14, 1848, but we meet here, for the first time,

with the conclusion, *as matter of law*, that the church is nevertheless entitled to only the ground actually covered by the church edifice, and adjoining enclosure actually occupied by the missionaries, amounting in all to less than a half an acre of ground; and, as shown by the pleadings and proofs, that opinion has been endorsed by the Secretary of the Interior, and a patent is now offered to appellant by the Land Department for ~~such~~ such half acre, and no more, of the land. Has the appellant, then, any remedy; and if so, what is it?

The appellant could not maintain ejectment, for the reason that the legal title remains in the United States until the issuance of patent, and it is held by this Court that, under like confirmatory grants, the title of the grantee attaches to no particular land until it is surveyed and the survey is approved at the General Land Office, according to section 2447, Revised Statutes. By refusing to approve this survey, therefore, the Land Department has it in its power to perpetually prevent appellant from acquiring the *legal* title to this land.

Maguire *v.* Tyler, 1 Black, 195;
Maguire *v.* Tyler, 8 Wall., 661;
Langdeau *v.* Hanes, 21 Wall., 530, 531;
Van Reynegan *v.* Bolton, 95 U. S., 33;
Snyder *v.* Sickles, 98 U. S., 212-213.

It was a grant *in presenti*, though the land remained to be identified.

Schulenberg *v.* Harriman, 21 Wall., 60-63;
Railroad Co. *v.* Smith, 9 Wall., 95;
Wright *v.* Rosebery, 121 U. S., 488;
Branch *v.* Mitchell, 24 Arks., 431;
U. S. *v.* Minnesota, &c., *1 Minn., 127.*

Neither can the officers of the Land Department be controlled by mandamus, so long as they have any dis-

cretionary jurisdiction in the matter. It is only when there remains some merely ministerial duty to be performed that they can be required by the courts to act contrary to their volition.

United States *v.* Seaman, 17 How., 225;
Litchfield *v.* Register, 9 Wall., 575;
Moore *v.* Robbins, 96 U. S., 535;
Marques *v.* Frisbie, 101 U. S., 473;
Smelting Co. *v.* Kemp, 104 U. S., 636;
Steel *v.* Smelting Co., 106 U. S., 447;
U. S. ex rel. v. *Blaine, 139 Ib., 306.*

But if plaintiff, as the representative of the Catholic church and the St. James Mission, is entitled to 640 acres of land under that "proviso" in the act of Congress of August 14, 1848, then it is not in the combined power of the Land and War Departments of our Government to deprive him of that right by perpetual refusal to recognize it. It is the boast of our jurisprudence that there exists no right without proper remedy for its enforcement, even though the humblest citizen be the complainant, against the Government itself as the party by which such right is withheld. The remedy of this plaintiff, then, is by means of a suit in equity, to have the title protected and quieted to his church by act of Congress, established in him by the decree of the proper court.

Irvine *v.* Marshall, 20 How., 564–567;
United States *v.* Lee, 106 U. S., 217–220;
Johnson *v.* Towsley, 13 Wall., 86, 87; *id.*, 91;
State *v.* Batchelder, 1 Wall., 109–115.

Such confirmatory "proviso" is equivalent to an express grant.

Strother *v.* Lucas, 12 Peters, 454;
Ryan *v.* Carter, 93 U. S., 73; *id.*, 644;
Tamling *v.* United States, &c., *ib.*, 644;
Maxwell Land Grant Case, 121 *ib.*, 325.

And the language of the granting act, "the title to the land not exceeding six hundred and forty acres," is equivalent to an express grant of 640 acres, if there was at the date of the granting act that quantity of public land in the tract upon which the missionary station was then located, and according to these authorities this was a vestiture of title absolute, when the land was identified without any patent, and this suit is to protect that title and possession under it from invasion and disturbance, which is good if patent never issues for it. For at all times, and at any and all risks, the right to a patent is as good, with respect to the Government dealing with the public land, as a patent issued.

Stark *v.* Starrs, 6 Wall., 482.

Mr. Black recognizes the right of the mission as we claim, and also the doctrine of constructive possession, as we have discussed just above. (9 Op., 330.)

See, too, *3 Washb. R. Prop., 118;*
Conway v. *Kinsworthy, 21 Ark., 9.*

The missionaries were not required any more than was the settler under the donation law to actually occupy the entire tract granted.

United States *v.* Tichenor, 8 Sawyer, 154, 155;
Dalles City *v.* Missionary Society, 6 Sawyer, 133, 136;
Perkins *v.* Miller, 60 Texas, 61; 15 U. S. D. N. S., 628, place 5;
O'Neale *v.* Cleveland, 3 Nev., 442;
Sec. 2389 U. S. Rev. Stat.;
David *v.* David, 56 Ala., 51.

Necessarily, under all law and all decisions, their occupancy and possession of a portion of the land in August, 1848, drew to it, if the act of Congress of that date is not meaningless, enough more to make 640 acres. (*Lindsy*

v. *Hawes, 2 Bl., 554.*) This case is wise and instructive on other views involved in this controversy; and Silver *v.* Ladd, 7 Wall., 219, renders cheerful allegiance to it.

The attempt is made by the defendants to establish the proposition in their answer and by evidence that these missionary priests were mere attaches and employés of the Hudson Bay Company. But this question of fact has also been universally determined by the Land Department in favor of the absolute independence of the missionaries, in so far as any such relationship between them and that company was concerned. See this matter as discussed in the report and decision of Surveyor-General Henry and in the opinion of Assistant-Attorney Smith, adopted and acted upon by the Secretary of the Interior, as containing the facts and law of the case.

And the certified copies of these papers from the Land Office are admissible in evidence to prove such findings of fact.

R. St., secs. 891, 2469, 2470.

It is a material point also in this case that those findings were not based upon an *ex parte* showing made by the church, but were the result of due consideration by the proper officers of the Government of all the proofs and evidence offered by the contesting claimants respectively, the Government included, at a time when events were fresh in the memory of important witnesses, who are no longer living, and in a contest ordered purposely by the head of the Land Department, with a view to procuring and perpetuating that evidence, and of determing therefrom the merit of the claims of the said several parties to the very land now in controversy in this suit.

Nor is there a shadow of foundation upon which now to base a claim that any of those findings were the result

of mistake on the part of any of said officers, or were procured by fraud or false testimony. On the contrary, such evidence of yet living witnesses, who were cognizant of those matters and events, as the parties to this suit have been able to obtain, is corroborative of the evidence then offered by the respective parties to that contest, and it may be justly said that the carefully truthful statements of Bishop Blanchet himself presented the case of the church in that contest with less positiveness in its favor than was warranted by the clearly-established circumstances of the case.

United States *v.* Atherton, 102 U. S., 372, and cases cited.

We come now, therefore, to the very important question, upon the determination of which this whole case depends, which is: Did the temporary occupation of this land by the Hudson Bay Company, under its license for trading purposes among the Indians, constitute a barrier to the occupation at the same time to the same land by the Catholic church as a missionary station among the Indian tribes in said Territory?

To this question it appears to us that but one reasonable answer can be given, and that is in the negative. The Hudson Bay Company was incapable of obtaining title to the soil thus occupied by it, under any circumstances, and this was well known to Congress at the date of the passage of said act of August 14, 1848. It is needless to inquire whether said company had power under its charter to do so, while the soil was claimed by the British Government, for it is not pretended that it ever at any time attempted to acquire such title. When the treaty of 1846 was ratified between Great Britain and the United States the former government abandoned all claim to the lands within the relinquished territory, only

stipulating for the protection of its subjects within said territory in their *possessory* rights, and this *only* was guaranteed by the United States. The license of the Hudson Bay Company conferred upon it no right or title in or to the soil, but only the right to occupy it temporarily during the period prescribed in said license for trading purposes with the Indians. When the treaty was made and ratified the United States became the sole and absolute owner and proprietor of the land itself, with the right to dispose of the title thereto whenever and to whomsoever, and upon such terms as Congress should determine, subject only to the burden of said temporary right of occupancy then existing in the Hudson Bay Company, and upon the expiration of its license the title so vested by Congress in such other person or party would be relieved of said burden.

There is no evading this conclusion; and the question as to what the intention of Congress was as to the particular land in controversy is to be arrived at only from the language of the act of August 14, 1848. That language is plain, explicit, and unqualified. Congress was aware at the time of the passage of that act of the fact that the right of occupancy of a large area of territory was claimed, and several portions of it actually occupied by the forts and trading posts of the Hudson Bay Company, yet such lands were not exempted from the grant in case they were at the same time "occupied as missionary stations among the Indian tribes in said territory" by any religious society.

Nor is it to be believed that Congress supposed that in any case missionary priests or preachers had gone into farming operations on so large a scale as to have the one-fourth part of 640 acres of land in cultivation or under fence, or had anticipated the passage by Congress of the

act of August 14, 1848, and had therefore staked out, blazed around, or otherwise marked off, and thus segregated from the surrounding public lands the 640 acres which such missionaries proposed to claim under said act.

The intention of Congress manifestly was to recognize and reward the services of the religious societies to which such missionaries belonged in assisting to, as far as possible, civilize and Christianize the Indian tribes, and thus avert wars and depredations on the part of the Indians upon and against the whites, in like manner as Congress intended by the act of September 27, 1850, called the Donation Law, to reward the settler who braved the hardships and dangers of pioneer life in assisting to redeem the territory from its wilderness state, and inducing further immigration; and the reward given in each case was 640 acres of land, on some part of which the required occupancy had been established, or, in the case of the settler, might be established within the time prescribed.

The Land Department itself, at the very outset of this controversy, construed the license of the Hudson Bay Company as conferring upon it only such temporary possessory rights as we have above alleged, and held that such license "did not convey title to the soil," that its legal rights terminated in May, 1859, leaving the title of the United States absolute and unincumbered. (See the letter of the Commissioner of date September 29, 1859, directing the surveyor general of the Territory to proceed to extend the public surveys over the land now in controversy.)

This proposition, that the temporary right of occupancy of the Hudson Bay Company under its license for trading purposes, as protected by treaty of 1846, did not and could not in anywise interfere with the right of

Congress to dispose of the title to the soil, subject to the burden of such possessory right of occupancy by said company until the expiration of its license, and that a grant of land prior to the expiration of said license would convey the title to the soil, subject only to said temporary encumbrance thereof by said company's right of occupancy, during the remainder of the time prescribed in such license, is, we submit, as to the legal principle involved, fully settled by the decision of this Court often repeated—

Buttz *v.* N. P. R. R. Co., 119 U. S., 55;
Beecher *v.* Wetherby, 95 *Ib.*, 517, 525;
Johnson *v.* McIntosh, 8 Wheat., 543;
Clark *v.* Smith, 13 Peters, 195, 201.

There can not be a reasonable doubt that if the land in controversy had not been a desirable location for a Government fort or post, or if some settler instead of the Government troops had entered upon this land in 1849, and endeavored to dispute the right and title of the Catholic church to it, the Land Department would long since have granted to appellant a patent for this land as the property of the church, under confirmation contained in the "proviso" of the act of August 14, 1848.

Nor does the fact that at the expiration of the license of the Hudson Bay Company the Government saw fit, voluntarily, to compensate the company, in whole or in part, for the buildings and improvements which it had put upon the land, the possession of which it was about to abandon, at all affect our case. In fact, it appears from the evidence that those buildings were rude log houses of little or no value to anyone, and that they were all torn down soon afterward, when the stockade was demolished, It is scarcely reasonable to suppose that the language "together with the improvements thereon," contained in said proviso, was intended to refer to im-

provements made by the missionaries themselves. A grant of the land necessarily carried such improvements with it, if not expressly reserved. It would rather seem that such words were inserted to effectuate the transfer, together with the land, of improvements to which the missionaries could not otherwise lay claim than by gift from the Government, and their title to which under the grant might, without such express relinquishment of claim thereto by the Government, be considered questionable. Why those words were inserted in the proviso we do not know, but there they are, and they must be intended to have been inserted advisedly, and not without some purpose being had in view by the grantor, beyond unnecessarily saying to the grantee, we donate to you, together with this land, the improvements thereon which may have been created by your own money and labor. At all events the land was granted, and if the military authorities subsequently considered it a desirable and convenient location for a military post, the only way in which the Government could re-acquire it was by condemning it by legal procedure to such use, as hereinbefore shown.

It is clearly proved by the evidence in this case, both that which was taken before the referee as original testimony, and that formerly taken in the contest before the Land Department, and copies of which have been filed with the referee, that the Catholic priests, Blanchet and Demers, were sent to Oregon by the Catholic Bishop of Quebec, upon petition of the free families then inhabiting Oregon Territory, and that the expense of the trip was borne by the church and the petitioners in the main, although the wilderness part of the journey was made in company with the employés of the Hudson Bay Company. The instructions given by the bishop to those priests show clearly that they came as missionaries

to the Indian tribes in the territory, for no such instructions could of right have been given, or would in reason have been imparted, had the mission of the priests been as employés or attachés of the Hudson Bay Company, for in that case their services would have belonged to and have been subject to the dictation and control of the company. It also clearly appears that after reaching the territory the priests went and came as they pleased among the Indians, and established missionary stations where and when they chose in different parts of the territory. That they were supported in principal part by money sent from France and Quebec by the church, and by contributions from members of the church in Oregon, combined with the products of their own cultivated lands at the Cowlitz, and such voluntary aid as the officers of the Hudson Bay Company chose to contribute in support of their meritorious services among the Indians and the employés of the company, the most of whom were married to Indian women. One or the other of the priests was almost always at Vancouver, and because that was the headquarters and principal trading post of the Hudson Bay Company, where the largest number of Indians were accustomed to congregate, the greatest facility was thereby afforded the missionaries for laboring with and among the Indians accustomed to assemble at Vancouver, and the evidence shows that the priests faithfully improved that opportunity by preaching to and teaching, baptizing, and catechising the Indians coming there, according to the creeds and doctrines of the Catholic church. The evidence introduced from the books and records of the church show that scores of persons were baptized, married, and buried at Vancouver, according to the rights and ceremonials of the church, between 1838 and August 14, 1848; and that on the very day of the passage of the act of that date the marriage ceremony was performed in the Catholic church edifice

at Vancouver, between Judge Petrain and his wife, said building having been previously donated to the Catholic church by the Hudson Bay Company, and the dedication of it as such church edifice was witnessed and attested in writing on the records of the church by Gov. James Douglas, the then chief manager of the Hudson Bay Company at Vancouver.

As to the claim that a missionary station among the Indian tribes could not exist except in connection with a farm reduced to cultivation, and mills and shops established, so as to carry on thereat the arts of husbandry and mechanism, and to educate the Indians in the occupations of civilized life, in conjunction with imparting to them religious instruction, we consider it so unsupportable and contrary to the purposes and intent of missionary labor among unchristianized people as not to require further notice in argument.

For the foregoing reasons we therefore submit that according to law and the evidence, the confirmatory grant contained in said act of August 14, 1848, vested in the Catholic church a right to the 640 acres of land upon which said missionary station existed for ten years prior to and on the day of the passage of said act of Congress, and which was surveyed off and marked upon the ground and entered upon the maps and plats of the public surveys by the surveyor general of Oregon, in obedience to instructions from the Commissioner of the General Land Office. That there was nothing in the temporary right of occupancy of the Hudson Bay Company under its license, which could or did interfere with the vesting of the ownership of the soil, *cum onere*, in the Catholic church, according to the terms of the confirmatory *proviso* contained in the granting act. That the intention of Congress in passing this act is to be derived from its

language, which plainly granted to the church said 640 acres of land so surveyed off as such mission lands at Vancouver, the same being at the date of said act public land of the United States subject to be transferred to the Catholic church by the terms of said granting act, unincumbered only by the burden of temporary occupancy by the Hudson Bay Company until the expiration of its license; and that the entry of the United States soldiers upon the land in 1849, could not and did not in anywise disturb or defeat such vested right of the church thereto; nor has the refusal of the Land Department to approve such survey and issue a patent to the church for this land, or the attempt of the War Department to deprive the church and plaintiff of the benefits of said grant, any effect to prevent the courts from decreeing the same to plaintiff, and thus quieting his title thereto in this suit.

We must not be misled by any words or suggestions in this case, that this offer in the act of 1848 was a mere gratuity or bounty, for it was based upon the highest and most exalted of considerations—far above mere dollars and cents—and such as all nations hold as sacred as any element that enters into their engagements. It was to educate, civilize, and Christianize the Indians in that then far and distant land; it was to open up that wilderness, and make it "blossom as the rose;" it was to "ring out the darkness of the land." When homesteads and pre-emptions are offered for a paltry sum of money, it is not merely that one Smith or one Brown shall get a home, but that entering into forests, to encounter storms, rocks, snows, and floods, that Smith or Brown may induce others and others to come and build and live, and make communities of comfortable and prosperous, people and cultured people, for the benefit of the country all. And the great abundance of eloquence, in Congress in advocacy of these measures, is full of scarlet

rhetoric, picturing these advantages to flow from their passage; and the courts have from our earliest history given them a liberal construction. (*Ross* v. *Doe, 1 Pet., 666.*

This court leans so far in construing and giving effect to a benevolent statute, inviting citizens to settle on public lands, as to unsex unmarried women and make them single men. (Siver *v.* Ladd, 7 Wall., 219.)

But placing it in its inception as a gratuity, as a gift, this mission was there then, living, acting, working, and laboring, and the gift, so called, was accepted, and became perfected, executed. It then stands as a valid and binding contract from the beginning (*9 Wall., 95, sup.*), just as the swamp-land grant did, conceived, if you please, and brought forth, as a donation. (*McGee* v. *Mathis, 4 Wall., 155, et seq.; 1 Minn., sup., 127; ib., 358.*)

There was a principle in the civil law that permitted even a perfected gift to be recalled, for ingratitude (*2 Colq. Ro. C. L., sec. 1065; Just. Int. 2, tit. 7, 2; 1 Domat, § 942; Mack. Civ. L., Dropsie, § 469*), but that has never been sanctioned in our law.

It was a public, notorious fact that this mission was there at work, and to keep up such good work Congress offered this inducement—for what had been done in the past and what should be done in the future—that the noble work might go on.

There is no power—legislative, executive, or judicial, or all of them combined—to undo this grant and recall it. If so, how do they get even the infinitesimal portion offered them, for that stands on no better foundation in law than the balance of the 640. Why mock them in this way, for it is but trifling with a great and dignified and far-reaching affair, to thus give them this small piece of ground when they ask for four hundred and thirty acres, to which they are entitled, or they are entitled to nothing. They expect grain, and they get chaff.

The whole right rests upon an act of Congress naming six hundred and forty acres, and no more, but naming not five or a portion of one. Those *executing* the law have *legislated* it away and *repealed* it, and made another in its stead.

In their zeal to enforce the act of Congress the officials executive take from these people their graveyard and confine them to this one little corner of a portion of an acre, and for no other reason, we suppose, than to effectually separate the living from the dead; or, it may be, they wanted the mission to offer the Government four hundred shekels for it, for "what is that betwixt me and thee," as Ephron said unto Abraham when Abraham was hunting for a place to bury his dead. (Gen., xxiii, 15.)

A question by no means immaterial arises here, in connection with the two hundred and ten acres, not in this controversy, as it was, before this suit was brought, disposed of by the action of this mission, Short's heirs and others, noted in the record. This disposition, it seems, has been recognized and acted upon and held binding by all parties concerned. If this mission had no right there, outside of a place to preach and to teach in and not to be buried in, how is it they are parties to the disposing of this 210 acres and settling title thereto, which disposition is held valid and so acted upon by all persons, public and private? The answer is, that they have the right to the 430 acres here claimed to make up, with this 210, the entire 640, and the United States is equitably estopped from contesting it. She is now in court as an individual, at her own seeking, and she is bound thus, just as individual litigants would be. (*Curran* v. *State, 15 How., 304; Davis* v. *Gray, 16 Wall., 203; U. S.* v. *State Bank, 96 U. S., 30; So. Pac.* v. *U. S., 28 C. Cls., 105; 3 Hamilton's Works, 518–99; Cooley Con. Lim. 330, note 1.*)

It is to be hoped that this court will not be alarmed and driven from its sense of justice, because in executing the act of 1848 some churches and associations not worthy, or really not entitled to its benefits, might however get them. The statute is to be construed as matters then stood, and the words used are to be held to mean what they did then.

There is no cavil, and there can be none, as to what is meant by the words *religious societies* in the act, and they mean now just what they meant then. But whatever issue imagination or real thought may conjure up as to this, we do know, and all then knew, this denomination came broadly, fairly, and squarely within the meaning of that language; and as to advancing forward with the banners of education and religion were the pioneers over all in our Southern and Western Territories; instance, Kaskaskia, Vincennes, St. Louis, The Arkansas Post, Natchez, Mobile, St. Augustine, New Orleans, Santa Fé, Santa Barbara, and Monterey, and the list might be added to ten-fold more. And the argument is too timid, too faint hearted, in declining to recognize this transaction, to say if it is done others not entitled to it would or may get lands too. This fear is based on grounds too remote, too visionary, to be utilized here.

No good, no comfort, could be dispensed if this be sound reasoning. Poor charity, that is said to cover a multitude of sins, must cease work; the sunlight and the dews that fall alike upon the just and the unjust, the good and the bad, the righteous and the unrighteous, must stop falling.

No aid can be rendered to the United States here, by invoking that general principle that construes grants from the sovereign favorably to the sovereign and against the grantee, for this suit happens to be one that stands out plainly as an exception to that rule. This was an act for the public benefit in the very highest sense, and the rule is, in such cases, to construe it liberally, so as to advance this

public interest, doing as little damage as possible to the private interest. This is the doctrine from *Coke* to the present time. *11 Co., 73, b.; Str., 253; 2 Vern., 431; Jerome* v. *Ross, 7 Johns. Ch., 340–2; 14 Haz. (Pa.) Regr., 129; The Town, &c.,* v. *Clark, 9 Cr., 292; City, &c.,* v. *Lessee of White, 6 Pet., 436; Inglis* v. *Trustees, &c., 3 Pet, 99, et seq.; In Northern Pac., &c.,* v. *St. Paul, &c., 26 Fed. R., 558,* Judge Brewer drew the line of distinction aptly and well, as did Judge Jackson in *United States* v. *Denver, &c., 150 U. S., 14.*

It appears that an appeal was taken from the Commissioner's action on the report of the surveyor general (Rec., 209) to the Secretary of the Interior, who refused, or failed in some way, to consider it. From this failure of the executive officer to do his duty no injury can be worked to appellant. This the claimant could not help, or correct. And running through this record, the court will observe other failures of officers to do what the law imposed upon them, other errors of commission and omission, of action and non-action, but these can not affect, in any way, this claim. The United States will not be thus permitted to stir up a dust, and then be heard to complain she can not see.

We have seen when the right of the claimant began, and the neglect or failure of the officers to do what they should have done after that, is of no moment here; as this court said in *Glasgow* v. *Hortiz, 1 Bl., 602,* "His (surveyor general) neglect could not suspend the vesting of the titles granted, much less his blunders forfeit them." And to the same effect, in cases of different sorts, where this rule is applied; see *Taylor* v. *Brown, 5 Cr., 241–213;* especially *Lytle* v. *The State, 9 How., 333; Hornsby* v. *United States, 10 Wall., 238; Craig* v. *Bradford, 3 Wheat., 494; United States* v. *Castellero, 2 Bl., 97; Nelson* v. *Sims, 23 Miss. (1 Cush.), 388; Edward* v. *James, 13 Tex., 52; Simpson* v. *Montgomery, 25 Arks., 365; Harrison* v. *Lewis, 27 Ib., 152; Oats* v. *Walls, 28 Ib., 244.*

Persons relying upon or citing *Missionary Society* v. *Dalles, 107 U. S., 337*, to defeat this case, must be playful and jocose to the last degree. This case, in its essence, resembles that as the morning star might be said to resemble a large tallow candle lighted. That case shows no occupancy, or residence, or claim asserted at the time the act of 1848 was passed, but really an abandonment of all pretense of such, a year before that time, hence there was nothing to ask and sue for. This case shows an establishment of a mission ten years before the act was passed, kept up and enlarged and extended continuously, up to the passage of that act, and afterwards up to date, and asserted at all times, in all possible proper methods, and requested, begged for, with unbroken and unceasing efforts, and now demanded as of right. The difference between the two cases is as marked, open, and glaring as that between midday and midnight.

It must be noted in this Record, that the proof on behalf of appellant as to the existence of this mission in August, 1848, when the act of Congress was passed, is of an affirmative, positive character, and not inferential only; but that of the other side, as against this fact, is of a merely negative sort, or of a non-seeing or non-recollecting nature. Then as between the two the affirmative proof must outweigh.

The rule is as univeral as a rule of law can be, that negative evidence is of little weight when opposed to positive affirmative evidence.

Wills Cir. Ev. (6 Am. Ed.), 290;
Stark. Ev. (Sharswood's notes), X, 867;
Best. Ev. (Chamberlayne Ed.), sec. 270;
Chambers *v.* The Queen, &c., 2 Curt. Eccl., R. 415.

It has never been known, we believe, why Grafton, the printer to Queen Elizabeth, in his history of King John, written in 1562, made no mention of Magna Charta, but

yet we do really know there was a Magna Charta that was worthy of mention in connection with that king.

This case comes here as a whole upon the entire Record, both as to law and facts, with no conclusiveness at all in favor of the finding of facts by the court below, and this court must pass upon them for itself regardless of what that court did, as if the matter were original here, and do upon the whole case what should have been done by that court.

Gelston v. *Codwise, 1 Johns., ch. 189;*
Ringold v. *Patterson, 15 Arks., 209;*
Woodruff v. *Core, 23 ib., 341;*
Spear Fed. Jud'y, 259, and 60 cases cited.

And now we most respectfully submit, if these people are to lose this land, under the enforcing of the law by the executive officials, it is manifest they have not been dealt with in that uberous, that abundant faith they expected, and had the right to expect, but rather in that Punic faith which has become "a proverb and a by-word among all people."

A. H. GARLAND,
H. J. MAY,
RUFUS C. GARLAND,
For Appellants.

87-173

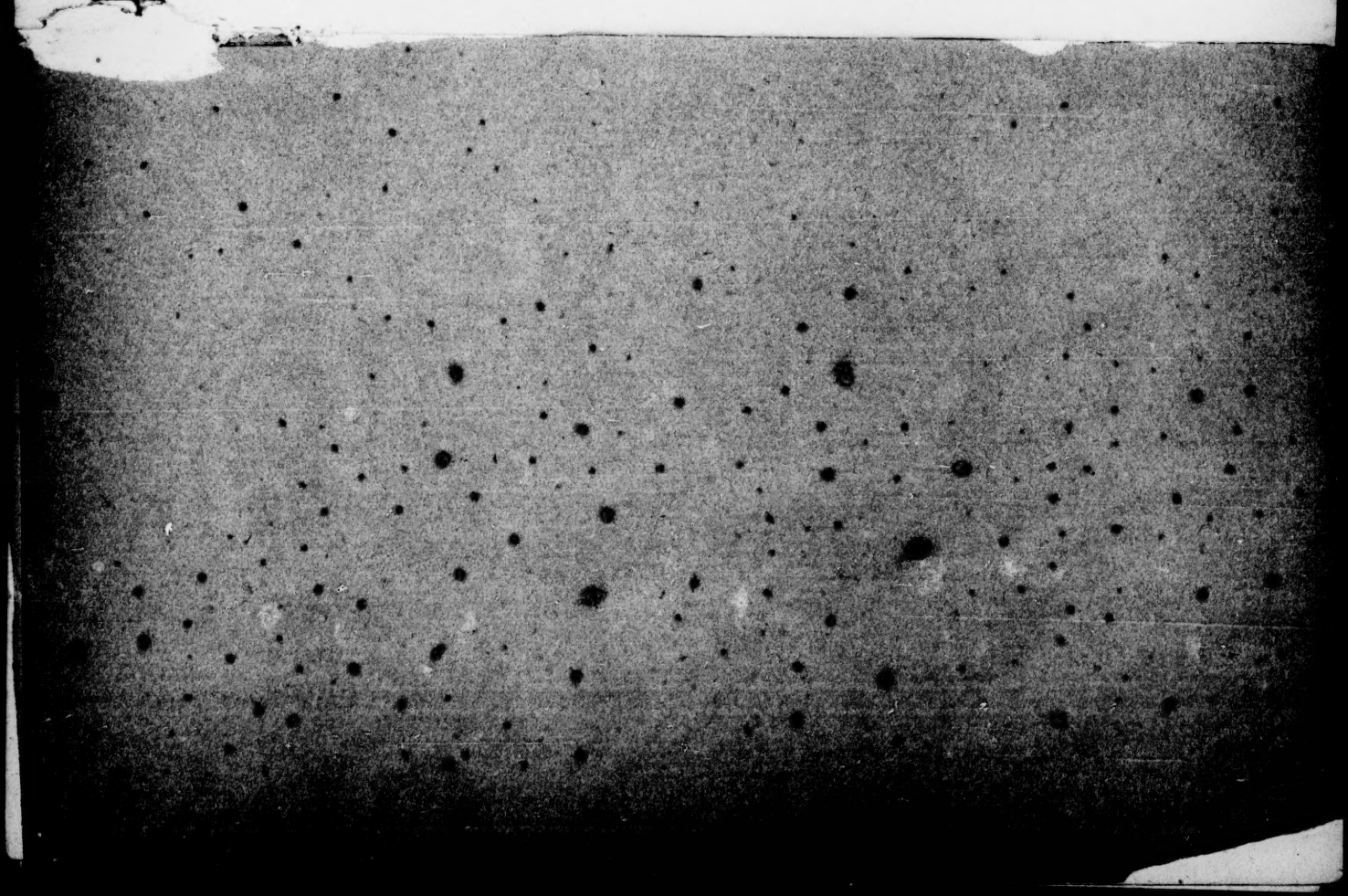
In the Supreme Court of the [illegible]

OCTOBER TERM, 1894.

THE CORPORATION OF THE CATHOLIC BISHOP of Nesqually, in Washington Territory, appellant,
v.
JOHN GIBSON, T. M. ANDERSON, R. T. YEATMAN, and the United States.
No. 173

APPEAL FROM THE CIRCUIT COURT OF THE UNITED STATES FOR THE DISTRICT OF WASHINGTON.

BRIEF FOR THE UNITED STATES.



In the Supreme Court of the United States.

OCTOBER TERM, 1894.

THE CORPORATION OF THE CATHOLIC Bishop of Nesqually, in Washington Territory, appellant,
v.
JOHN GIBSON, T. M. ANDERSON, R. T. Yeatman, and the United States.
No. 277.

APPEAL FROM THE CIRCUIT COURT OF THE UNITED STATES FOR THE DISTRICT OF WASHINGTON.

BRIEF FOR THE UNITED STATES.

The bill in this case was filed in the district court of the second judicial district of Washington Territory in February, 1887, against the appellees above named *other than the United States* (pp. 1–10). It charges that the Bishop of Nesqually, Washington Territory, was incorporated by an act of the legislative assembly of the Territory of Washington in January, 1861, with power to such corporation to acquire, hold, sell, and grant real and personal property, and to plead and be impleaded in all courts of justice.

That prior to August 14, 1848, the Roman Catholic Church established a mission upon 640 acres of land adjacent to the town of Vancouver, in Washington Territory.

That said mission was established in 1838 by two Catholic missionary priests, under the authority of the Catholic bishop of Quebec.

That said Catholic mission was so established upon said 640 acres of land on the 14th day of August, 1848, on which day was duly approved the act of Congress entitled "An act to establish the Territorial government of Oregon." That by section 1 of said act of Congress it was provided as follows:

> That the title to the land, not exceeding 640 acres, now occupied as missionary stations among the Indian tribes, in said Territory, together with the improvements thereon, be confirmed and established in the several religious societies to which said missionary stations respectively belonged.

That on the 14th day of August, 1848, the section of country in which said mission was so established was in possession of the Hudson Bay Company, under license from the Government of Great Britain.

That under the treaty of June 15, 1846, between the Governments of the United States and Great Britain, it was provided—

> That the possessory rights of the Hudson Bay Company and of all British subjects who may be already in the occupation of land or other property, lawfully acquired, within said Territory shall be respected.

That the license granted to the Hudson Bay Company by the Government of Great Britain was a mere possess-

ory right to establish posts within said territory for trading purposes with the Indians. That such license did not invest said company with any right or title whatever in or to the soil, but of the bare right of occupancy, and that said license expired on the 15th day of May, 1859.

That in 1853 the said mission filed with the surveyor-general of Oregon an official notice of its claims to the 640 acres of land, and upon the expiration of the license of the Hudson Bay Company the said mission notified the Commissioner of the General Land Office, and asked for an official survey of said 640 acres of land.

That by direction of the Commissioner of the General Land Office the surveyor-general of Washington Territory proceeded to extend the lines of the public surveys over the tract of country formerly occupied by the Hudson Bay Company.

That in May, 1849, the United States Government established a military post at Fort Vancouver—

> upon the land so granted to the Catholic church as a missionary station, and took possession of all of the said 640 acres of land upon which said mission was located which was not inclosed by said company, subject to the possessory rights of said company under said Article III of said treaty.

That on October 31, 1850, the War Department declared a military reservation of about 4 miles square, including said 640 acres of land. But by act of Congress of February 14, 1853, said military reservation was reduced to 640 acres of land, which included 430 acres of said 640 acres of land so granted to said Catholic church by said act of August 14, 1848.

That the claim of the Catholic church to the said 640 acres was opposed by three different interests:

First. By the military authorities in charge of the United States military reservation at Vancouver;

Second. By the widow and heirs of Amos M. Short;

Third. By the citizens of Vancouver, under the town-site act of 1844.

That neither the claim of the widow and heirs of Amos M. Short nor of the citizens of Vancouver covered any part of said 430 acres of land. That the only contest is as to whether the same belongs to said mission, or was properly reserved and set apart as a portion of a military reservation to the United States Government.

That as to the 210 acres remaining of the 640 acres, the claim of the Catholic church thereto was disallowed by the Land Department, and a patent was issued to the widow and heirs of Amos Short for one portion thereof, and another patent was issued to the citizens of the town of Vancouver, under the town-site law, for another portion thereof; and the conflicting claims of said church and of said patentees to the ownership thereof have been adjusted and compromised between themselves.

That on August 4, 1883, the Commissioner of the General Land Office decided that the survey executed July 10, 1872, covering an area of $\frac{46346}{100000}$ of an acre, is a substantial compliance with the Department decision of March 11, 1872, and said survey was approved and adopted, and sixty days were given from August 28, 1883, for an appeal from said decision to the Secretary of the Interior.

That said decision was affirmed by the Secretary of the Interior, and a patent was directed to be issued for said $\frac{46346}{100000}$ of an acre.

That the War Department of the United States, "as plaintiff is informed and believes," determined to disregard the rights of plaintiff and of said Catholic church in the premises, as well as to disregard the action and decision of the officers of the General Land Office, in holding that said church is the grantee of and plaintiff entitled to a patent to even the said $\frac{46346}{100000}$ of an acre of land; and said War Department has resolved and commenced forcibly to eject plaintiff from said premises and to dispossess said church of and to destroy the property upon that portion of said land which before and ever since August, 1848, has been in its sole and exclusive possession as its missionary station upon said premises, including said $\frac{46346}{100000}$ of an acre of land.

That the defendants, John Gibbin, T. M. Anderson, and R. T. Yeatman, officers and soldiers of the United States Army, accompanied by soldiers under their command and acting by their authority, have entered upon that portion of said 430 acres of land, which has so been in the exclusive occupancy of said church, and have torn down and removed fences, dug up the soil, cut down trees, and will, unless enjoined and restrained from so doing, remove fences, inclosures, and buildings of plaintiff and of said Catholic church upon said land, including the church edifice and inclosures upon said $\frac{46346}{100000}$ of an acre of land; and lay drains and sewers, and establish roads in, upon, and over said land, whereby irreparable damage

will be done to plaintiff, which can not be compensated in damages, and plaintiff will be compelled to institute and prosecute many costly and vexatious actions at law in the effort to protect his rights to said property.

The bill prays for an injunction, and that defendants be directed to surrender to plaintiff possession of 430 acres of land, and also for general relief.

It will be observed that this bill is not sworn to, and that the affidavit of the plaintiff on page 10 goes only to the alleged fact of the destruction of fences and trees, and to threats of defendants to do other acts.

The answer of defendants (pp. 11–16) denies specifically the material allegations of the bill and indicates certain grounds of defense.

To this answer the plaintiff files a special replication or traverse.

On February 5, 1887, the restraining order was confined to about 4 acres of land on which the church edifice and other buildings were erected.

On the 8th of April, 1887, the general demurrer of defendants was overruled and the restraining order was continued as to the $\frac{46346}{100000}$ of an acre. And the United States of America was, on motion of the United States attorney for Washington Territory, acting under the direction of the Attorney-General of the United States, allowed to appear and file their answer to plaintiff's bill.

On April 9, 1887, the cause was referred to W. B. Daniels to take and report the testimony in this cause, including all documentary evidence.

On the 12th of November, 1888, the referee made his report and filed the testimony taken in the cause.

On the 23d November, 1888, the cause came on to be heard as to all the original defendants and the United States. And after argument and upon consideration it was decreed that the cause be dismissed with costs to the defendant.

An appeal was taken to the supreme court of the Territory of Washington, and the decree of the district court was affirmed on the 7th day of March, 1889 (p. 37).

On the same day, on petition of plaintiffs, the cause was ordered to be reheard.

On motion of the plaintiffs, the cause was transferred to the circuit court of the United States for the district of Washington, on June 10, 1890 (pp. 40–42).

On the 3d day of November, 1890, the circuit court of the United States, after argument by counsel, and upon consideration, dismissed the bill of the complainant with costs (p. 49).

The opinion of Hanford, J., will be found (pp. 43–49).

On the 28th of November, 1890, an appeal was allowed to this court, and certain stipulations as to the record and the evidence were entered into by counsel (pp. 52–54).

ARGUMENT.

The contention of the complainant, who is appellant here, is that, under the act of Congress of August 14, 1848 (9 Stat., 323), entitled "An act to establish the Territorial government of Oregon," there was vested in him an absolute title to 640 acres of land "adjacent to what is now known as the town of Vancouver, in Washington Territory, and which tract of land is situated within

township 2 north, of range 1 east, of the public surveys of the United States, as the same has since been extended over and laid out upon the public lands in said Territory."

The provision of the act of Congress on which this claim rests is as follows:

> *And provided also*, That the title to the land, not exceeding six hundred and forty acres, now occupied as missionary stations among the Indian tribes in said Territory, together with the improvements thereon, be confirmed and established in the several religious societies to which said missionary stations respectively belong.
>
> A proviso carves special exceptions only out of the enacting clause, and those who set up any such exception must establish it as being within the words as well as within the reason thereof. (*The United States* v. *Dickson*, 15 Pet., 165.)

It devolves upon the appellant here, then, to establish—

(1) That the land claimed by him was actually occupied as "a missionary station on August 14, 1848;"

(2) That it was at that time a missionary station "among the Indian tribes in said Territory;"

(3) That such "missionary station" belonged to the religious society of the Roman Catholic Church;

(4) That there was no other religious society having at that time a missionary station on said land;

(5) That the act operated to embrace land held by the Hudson Bay Company, under possessory rights, which the United States had by treaty theretofore recognized and was bound to respect.

The concurrence of all these features is essential to the maintenance of the claim asserted in the bill.

They are not charged in the bill, nor are they established by the proof. On the contrary, we submit that the proof in this record overwhelmingly establishes—

II.

THAT THE LAND CLAIMED IN THE BILL WAS NOT "OCCUPIED AS A MISSIONARY STATION" ON OR BEFORE AUGUST 14, 1848.

The Rev. Francis N. Blanchet, now archbishop of Oregon City, came to Oregon November 24, 1838, as the Catholic vicar-general of the bishop of Quebec. He was accompanied by the Rev. Mr. Demers, who came with him as a priest and who is now bishop of Vancouver's Island. They came directly to what is now Vancouver, and were, so far as this record discloses, the first Catholic ecclesiastics in Oregon.

In his deposition given in this cause (pp. 228–238) the bishop testified as follows on cross-examination (pp. 235, 236):

> Interrogatory 1. When did you first know of the claim made to the land at Vancouver as a mission station?
>
> Answer. I can not say exactly. I know it was not to be claimed as long as the Hudson Bay Company was in possession of it.
>
> Interrogatory 2. In 1848 was the mission in possession of any land?
>
> Answer. It was in possession of the land where the church is.
>
> Interrogatory 3. From what source did it get that land?

church and the rectory—when he required the use of them—from the Hudson Bay Company, without any objection from the Catholic priests (pp. 354, 355).

The chief factor of the Hudson Bay Company, in 1853, was Peterkeen Ogden (p. 354).

The priests of the Catholic church had no schoolhouses, or convents, or orchards in 1849, 1850, 1851, and 1852 (p. 357); nor were there any Indian congregations or Indian schools receiving instruction from Catholic priests (p. 361).

The Hudson Bay Company was in actual occupation of all the present military reservation in 1849, and continued so until 1853, when Captain Ingalls left there.

In 1850 a military reservation, 4 miles square, was laid off by actual survey and established by the army officer in command at Vancouver. (See map, p. 455.)

In 1859 this reservation was reduced to 640 acres, which embraced a large part of the land now claimed by complainant here.

On the 23d of May, 1853, Mr. Ogden, the chief factor of the Hudson Bay Company, wrote to the surveyor-general of Oregon stating that he had just learned that the Bishop of Nesqually was claiming the section of land embracing the site of Fort Vancouver as a missionary station, and he says:

> I have the honor to notify you that no such mission ever existed at this place; but that on the contrary the Catholic church here has been sustained in part by the Hudson Bay Company for their servants, and its clergy have resided here at the sufferance only, and by the permission of the company. The idea of

> its being a missionary station among the Indian tribes is as novel as it is absurd, and has never been entertained in my belief by the complainants, even until the filing of the notice (p. 206).

The agreement between Captain Ingalls, U. S. A., and the Hudson Bay Company, of the 25th of May, 1849, will be found on page 380.

The War Department of the United States has, through the army officers, held continued and undisturbed possession of this land since 1849. (See documents referred to, pp. 363–365.)

On January 15, 1859, General Ingalls, then captain and assistant quartermaster, made an official report to the Quartermaster-General, exhibiting certain documents tending to show the want of any ground for the claim asserted by the Bishop of Nesqually to the land in question (pp. 463–468).

And in the communication from the Hon. J. D. Cameron, Secretary of War, to the Hon. Allen G. Thurman, chairman of Committee on Private Land Claims, United States Senate, there are set forth official reports and documents of the army officers from 1858 to 1860, showing that the land in question was never occupied as a missionary station.

The facts are strikingly reviewed and presented in the report of the Commissioner of the General Land Office to the Secretary of the Interior, of November 10, 1862 (pp. 480–486).

In the letter of instruction from the Commissioner of the General Land Office to the surveyor-general of Ore-

gon (pp. 256–258), referring to this land, he says, after reciting the proviso in the act of August 14, 1848:

> Such provision is understood to grant 640 acres to each separate and distinct missionary station referred to, and a like provision is made in the "Act to establish the Territorial government of Washington," approved March 2, 1853. * * * Documentary evidence of a satisfactory character must first be filed with you, showing historically the date and origin of each missionary establishment, the authority under which it was instituted, its progress and present condition, and if claimed to be held under an act of incorporation, a copy of such act, duly authenticated, should be filed. * * *
>
> The duties of this office and those of the surveyor-general of Oregon in regard to those lands are deemed to be simply as follows:
>
> First. To be satisfied, on documentary evidence to be filed, that the missionary station is such a one as, at the date of the establishment of the Territorial government on the 14th of August, 1848, did exist, and that it, therefore, is entitled to claim the benefit of the act.
>
> Second. To make a special survey of the claim, if found indispensably necessary so to do, * * * leaving all collateral questions in regard to the right of control of the property, etc., should any arise, to be determined either by judicial process or by further legislative enactment.
>
> In case any mission station should be found to fall within the unadjusted limits claimed by the Hudson Bay or Puget Sound Agricultural companies, you will receive evidence of the claim and all the facts respecting the same; but be careful that no special survey or definite action is had thereon until receipt of special instruction from the Department.

Referring to this claim of the Catholic Church, he adds:

> In regard to that and all similar cases that may arise, I have to state in general terms that no property liable to be claimed by others can be allotted by you to any of the missionary stations in the absence of special instructions from the Department to that effect.

That there was a church building erected at Fort Vancouver all agree.

Archbishop Blanchet, in his deposition above referred to, has stated when and by whom that building was erected. He says (p. 32):

> I had not purchased, but had obtained a piece of ground that was intended for the building of a church for this station. * * * This land was east of the present Catholic church and near an old mill. Before I left for Europe I recommended Rev. Mr. Demers to build a church on that land. The land was shown to me by James Douglas, esq., chief factor of the company.

On page 236 he says that the church was erected by the Hudson Bay Company or Mr. Douglas. That he never paid anything for its erection, and that no expense "was ever incurred for the church or the support of the priests, or fuel, by anyone except the Hudson Bay Company. The mission provided church furniture for service, but nothing else." He says, in the same connection (pp. 236, 237), that part of this church building was leased by the Hudson Bay Company, in 1849 or 1850, to Lieutenant Denman, and on page 237, when asked, interrogatory 23:

> Who owned it in 1848?
> Answer. I can not say.

Now, this witness was the founder of this so-callep mission. He was the pioneer of the Catholic Church in Oregon. The sole object and end of his life was to effect the establishment of his special communion in that Territory, in accordance with the instructions given him by the bishop of Quebec.

He was accompanied in this undertaking by the Rev. Modeste Demers, who was his coadjutor and assistant, and who shared with him this life of painful and self-denying devotion down to the year 1850.

In an affidavit of Bishop Demers, made the 24th of March, 1860 (p. 208), he says:

> The object of our thus being sent to Oregon and our instructions were, *first*, to preach the gospel to the natives scattered over the Territory of Oregon; and *next*, to reclaim from vice and immorality and to bring to the practice of the duties of their religion a great number of our countrymen who had been or still were engaged *in the service of the Hudson Bay Company*.

He refers in this affidavit to "the missionary station at Fort Vancouver." But it must be borne in mind that this affidavit was made nearly a quarter of a century after the event of which it speaks, and after the controversy, which is yet raging as to this property, as to whether a "missionary station" had in fact been established at this point, had already begun.

Bishop Demers further states (p. 209) that the Hudson Bay Company made to the mission an annual grant of £100, but that they did not do so on the strength of any

contract; that it was a spontaneous gratuity on the part of the company.

> For we were never in any way in the company's service, and they never pretended to exercise any control whatever over us.
>
> In support of the truth of this statement I might call to witness all the Hudson Bay Company's officers, clerks, and servants that have been living at the fort at that time.

The excellent bishop, if he yet lives, would be greatly dismayed could he read the testimony to-day of these "officers, clerks, and servants," whose attestation he so confidently invoked.

Sir George Simpson, who was governor of the Hudson Bay Company, and who is referred to by name in the bishop's affidavit, was called, in 1857, to give an account of his stewardship to a select committee of the House of Commons.

On page 552 of this record appears question 1104:

> Do you give religious instruction to the inhabitants of the United States?
>
> Answer. No; there is a Roman Catholic bishop who was taken across by us a good many years ago to Oregon, and he remains there *on the promise that he should be allowed £100 a year.*

And Mr. Peterskeen Ogden, who was chief factor of the Hudson Bay Company in 1848, 1849, etc., in his letter to the surveyor-general of Oregon of 23d of May, 1853 (p. 206), says:

> I have the honor to notify you that no such mission ever existed at this place, but that, on the con-

trary, the Catholic church here has been sustained in part by the Hudson Bay Company for their servants, and its clergy have resided here at the sufferance only and by the permission of the company, and have always been paid by the company $500 per annum. The idea of its being a missionary station among the Indian tribes is as novel as it is absurd, and has never been entertained, in my belief, by the claimants even until the filing of the notice.

Forbes Barclay (p. 513) came to Vancouver in March, 1840, and continued here until 1850 as physician and surgeon of the Hudson Bay Company. He never heard of any mission at Vancouver during that period.

> The Catholic priests, Blanchet and Demers, were always acting as chaplains to the Hudson Bay Company. I always understood them as such, and knew that they were so.
>
> They received a salary from the Hudson Bay Company and lived inside the fort of the company.

Religious service was held by the Catholic priests inside the fort until some time in 1846. It was then held at a place built by Mr. Douglas, the chief factor, at the same place where the present church is.

The church was attended chiefly by the Canadians who were in the company's service, and their families.

Dr. Forbes never heard of any claim asserted to the land until 1852 or 1853.

In 1848 there were two Catholic missions in the Willamette Valley and one at the Cowletz. There were also Jesuit missions in the interior.

Daniel Harvey (p. 537) came to Vancouver in 1841; lived about 7 miles from Vancouver, in charge of farm

and mill for the Hudson Bay Company. He never heard of the St. James Mission until the day he gave his deposition. There was no missionary station among the Indian tribes, occupied as such, to his knowledge, at Vancouver or in its vicinity in 1848. He was seldom at the fort.

Archibald McKinlay (p. 540) was a clerk of the Hudson Bay Company in 1840. He can not say whether there was a mission at Vancouver or not; but he knows that Mr. Demers and Mr. Delevand were chaplains at Vancouver, whom the Hudson Bay Company paid as such. Never heard of any claim to the land at Vancouver as a missionary station until 1851, 1852, or 1853.

These are some of the Hudson Bay Company's officers, clerks, and employees. None can be found of all who lived at Fort Vancouver from 1840 to 1850 who ever heard of the existence of a Roman Catholic missionary station there during that decade.

There were many others living there during that period besides the employees of the Hudson Bay Company.

William H. Gray (p. 331) landed at Vancouver September 12, 1836. Sent out by the missionary board of Protestants of the Congregational order to establish a mission in the Nez Perces country.

Other Protestant missions existed in Oregon at that time. He defines what is meant by a missionary station. He says (p. 332):

> It was customary for all parties in Oregon to select their own location and build their own houses and improvements, including all such improvements as were necessary for farming, etc. These stations, as

connected with the missions, they pursued the same course and had their own improvements. A missionary station was similar to a farm.

The first Catholic missionaries who came were Revs. Blanchet and Demers, under the auspices and permission of the Hudson Bay Company. They migrated or traveled from up here near Salem, at French Prairie, and from thence to Puget Sound. He met Rev. Mr. Demers at the station up at St. Paul and also at Vancouver. He saw them frequently at Vancouver. They traveled over the country mostly catechizing the Indians. Their permanent location was up the Willamette Valley at French Prairie. There was an Episcopal minister at Vancouver, who attended to his duties as a clergyman and instructed the servants of the company and preached to the officers and men. He was brought out from England by the Hudson Bay Company.

The Catholic priests, on their missionary tours, usually stopped here at Vancouver in the fort, and went from here to other places.

Their usual stopping place was here, like everybody else. The Protestant missionaries did the same and occupied places assigned to them by the company. I don't think the company showed any partiality.

This witness confesses to some prejudice against the Roman Catholics, but to a great deal more against the Hudson Bay Company. He believed it to be a part of the plan of the Hudson Bay Company, through these priests, to drive out the American missionaries and prevent the settlement of the country by Americans (p. 337).

He is the author of the "History of Oregon," which is in evidence in this case.

Many other witnesses testify here to the same effect.

We think the probative effect of all the testimony is to show that the early Catholic priests, like the early Protestant missionaries, in Oregon made Fort Vancouver their headquarters and rendezvous; that the Hudson Bay Company built its own church on its own land, just as it built the other houses for residence and business, as necessary features and instruments of the company's work. That it invited and entertained preachers of the gospel, of all denominations, and afforded to all, without discrimination, the facilities they needed for the performance of their work.

That the idea of a missionary station, within the meaning of the statute, was not born of the sturdy pioneers, Blanchet and Demers, but was the offspring of a later generation, the younger Blanchet and his contemporaries. It is not pretended that either by actual or constructive occupancy was 640 acres of land ever held by the Catholic church here. It can not be doubted that precisely the same state of facts on which they rely to support this claim would sustain with equal plausibility any like claim that might be asserted by the Methodist, Congregational, or Episcopal denominations.

In *Missionary Society* v. *Dalles* (107 U. S., 336) this court has passed upon a somewhat similar claim to lands under this act, and has ascertained the scope and meaning of the term "occupied," as used in the act of 1848.

Judge Hanford, in delivering the opinion of the United States circuit court in this case, said (p. 47):

> I am convinced, however, that the purpose of the act was not to make a gift nor to reward meritorious efforts in the missionary service, but rather to recognize the just claims of a few people who had incidentally, in connection with missionary labor, by their toil created property whereby the material interests of the nation were affected and greatly benefited, and to protect their natural rights to the property so created by confirming to them the legal title thereto.

That the Hudson Bay Company did not intend to give this church to the Roman Catholic society is clear, as well from the facts relating directly thereto as from like transactions appearing in this record.

When Mr. and Mrs. Petrain vacated in 1850 the house built by Petrain before his marriage in 1848, from materials furnished by the company, for the occupancy of which he paid no rent, they just abandoned it (Rec. 92, 93). And in 1853 (Rec. 412, 413) we find this Petrain house rented by John F. Smith from the Hudson Bay Company; and the manner by which the mission, which on August 14, 1848 (the day Mrs. Petrain was married in the church), had simply a church edifice of about 30 feet front by 50 feet deep (p. 92) uninclosed, acquired an inclosure of some 4 or 5 acres, is stated by Mr. Smith at pages 413–415 of the record.

III.

IT DOES NOT APPEAR THAT ANY SUCH MISSIONARY STATION BELONGED TO THE RELIGIOUS SOCIETY OF THE ROMAN CATHOLIC CHURCH.

Peter Poaps (p. 129), a Catholic priest, examined August 6, 1887, was then 34 years of age; and was consequently born in 1853. He produced two books, which were the records of baptisms, marriages, and burials of St. James Mission at Vancouver *and surroundings* from the year 1838 to 1844 and from 1842 to 1856, in two volumes. These books contain contemporaneous entries of births, marriages, and deaths occurring at the various points in Oregon Territory at which the Catholic priests ministered and exercised their offices.

In answer to the second question (p. 129), the reverend witness states that these two books "are the records of baptisms, marriages, and burials *of St. James Mission at Vancouver and surroundings.*"

The list appears on pages 141–157. An examination of that list discloses that a very large majority of the acts there registered were performed in the "surroundings," and were not "of St. James Mission." It shows what perhaps is more remarkable yet: that although "St. James Mission" is given very great prominence in the title, yet notwithstanding the fact that these entries were of matters occurring from 1838 to 1856, on page 136 the witness was asked:

> 49. Question. Can you find when the words "St. James Mission" first occur in these records?

Answer. Yes, sir; on page 122 of volume 2.

50. Question. Under what date is the entry in which these words occur?

Answer. On the 13th day of November, 1851.

So it seems that, although the church was begun in 1843-44 and was dedicated to the service and worship of the Roman Catholic Church in May, 1846, and from that church the mission station derived its title of the "Mission of St. James" (p. 227), yet, not until 1851 is this title recognized in the current official register of the church; that is, three years after the act of the 1848, under which this claim to the 640 acres is made.

We have already seen, from the testimony of the witnesses considered, that the Hudson Bay Company made no discrimination between Protestants and Catholics in the invitations it extended and facilities it afforded for having the gospel preached within its jurisdiction.

We have seen that at Fort Vancouver ministers of all denominations, as well as traders in that country, made their rendezvous, preached there, and from there went out on their missionary tours through all that region.

We have seen, that the Hudson Bay Company built this church upon its own ground with its own material and labor, and retained to itself the absolute rights of title and possession to it; that while the Roman Catholics blessed it and dedicated it, the Baptists, Methodists, Presbyterians, and Episcopalians were at equal liberty to bless and dedicate it, too, for all used it alike.

IV.

THE PROOF DOES NOT SHOW THAT THE ROMAN CATHOLIC WAS THE ONLY RELIGIOUS SOCIETY WHICH HAD A MISSIONARY STATION AT THIS POINT.

Using the term "missionary station" in the sense in which the complainant has found it necessary to use it, the evidence already considered abundantly shows that several other religious societies had their stations at Fort Vancouver.

The "History of Oregon," by W. H. Gray, in evidence in this cause, and "Oregon Missions," by Father De Smet, are referred to generally. As to the latter book, it is worthy of observation that, in the map prefixed thereto, the cross which marks the missionary stations of the church in Oregon in 1846, and appears so frequently on the face of this map, is conspicuously wanting at Fort Vancouver.

As already said, the facts on which complainants rely to support their claim to this 640 acres of land, embracing the city of Vancouver and the military reservation of the Government, would avail equally to support the claim of the several Protestant religious societies who performed their functions at that point. (Chamberlain's deposition, p. 120.)

V.

THE CLAIM MADE BY COMPLAINANT DIRECTLY CONFLICTS WITH THE POSSESSORY RIGHTS OF THE HUDSON BAY COMPANY, SECURED TO IT BY TREATY BETWEEN THE UNITED STATES AND GREAT BRITAIN.

In the treaty of 1846 between the United States and Great Britain the Hudson Bay Company's possessory rights to the land for the unexpired part of said period of twenty-one years was recognized and guaranteed by the following clause in the third article:

> In the future appropriations of the territory south of the forty-ninth parallel of north latitude, as provided in the first article of this treaty, the possessory rights of the Hudson Bay Company, and of all British subjects who may be already in the occupation of the land, or other property lawfully acquired, within the said territory, shall be respected.

In May, 1849, Major Hathaway, of the United States Army, with a company of soldiers, arrived at Vancouver, and at once rented from the Hudson Bay Company buildings for quarters for his troops, including part of the building used as a Catholic church, and with consent of said company established a military camp upon the land now in dispute. A camp and garrison for the United States troops was continuously, from that time to the institution of this suit, maintained there. And, except a small portion thereof, all of said land has been occupied and used for that purpose.

In October, 1850, Colonel Loring, the commanding officer of the United States troops at Vancouver, issued a

proclamation, creating a military reservation for use of the Government of the United States, 4 miles square, with defined boundaries, including this land now claimed by the Catholic Church; and declaring said reservation to be subject only to the temporary possessory rights of the Hudson Bay Company, guaranteed by treaty; and also giving public notice that all improvements within the limits of the reservation would be appraised and payment therefor recommended (pp. 444, 446, 450, 561).

The possessory rights of the Hudson Bay Company expired by limitation in 1859. Those rights embraced the 640 acres of land here in dispute. Although the right was of possession merely and not of title, yet it was exclusive and absolute, and its undisturbed, free, and complete enjoyment during the period over which it extended was secured to it by the provisions of the treaty.

Congress had no more right to grant to the Catholic Church, or to anyone else, the use and enjoyment of any part of that 640 acres than it had to grant any part of the British Possessions. And, because it had no such right, it will not be held by construction to have intended by the proviso in the act of 1848 to have granted the right to use or occupy any part of said land.

When it confirmed and established in the several religious societies the title to the land not exceeding 640 acres now occupied as missionary stations among the Indian tribes in said Territory, together with the improvements thereon—to which said missionary stations respectively belonged—it beyond all doubt had in mind missionary stations in the sense in which that term was

understood among the missionaries and settlers on our Western frontiers at that time; that is, missionary stations which occupied land upon which the missionaries had erected dwelling houses, schoolhouses, churches, barns, and mills, and in connection with which gardens and fields were cultivated.

The missionary of that day was the pioneer settler upon the public domain. He broke the track, along which others speedily followed. He attracted, by his influence and example, that immigration which at that time it was the object of the Government to encourage and foster. It is the veriest nonsense to suppose that the Government of the United States was offering a premium to the missionary for the professional service he was performing any more than it offered such premium to the lawyer or the doctor for their professional services.

The Government recognized the civilizing influence of the Christian religion. It recognized the denominational or sectarian feeling as one of great cohesive power.

The migrations to our Western country, like the immigrations from Europe, were in large measure denominational. The Puritan, Roman Catholic, the Huguenot, and Scotch-Irish Presbyterian each selected and occupied its own chosen part of this continent. And so the Methodist, the Baptist, the Roman Catholic, and the Presbyterian, as well as the Mormon, made their several migrations to and locations in the Western country.

The missionary who had occupied land, inclosed, cultivated, and builded upon it exercised an attractive power to those of his own faith and denomination who were moving in that direction. It was to reward him as a

settler, and not as an ecclesiastic, that the Government confirmed and established the title to the land already occupied as a missionary station in the religious society to which said missionary station belonged.

This act had relation to the public domain, and to that alone. It referred to those parts of the public domain which were at that time actually occupied by these missionary stations. It had no more reference to a missionary station, if one existed on the lands of the Hudson Bay Company, than it had to similar stations on lands owned by the Mexican or British Government. It ratified and confirmed the title. This supposed, and necessarily imported, that some right already existed, which was capable of confirmation.

> A confirmation [says Shepard's Touchstone, p. 311] is the conveyance of an estate, or right, that one hath in, or unto, lands or tenements, to another that hath the possession thereof, or some estate therein, whereby a voidable estate is made sure and unavoidable.

In *Langdeau* v. *Hanes* (21 Wall., 521), the act of Congress of the 3d of March, 1807 (2 Stat., 446), entitled "An act confirming claims to land in the district of Vincennes," was construed.

The fifth section of that act provided:

> That every person, or the legal representative of every person, whose claim to a tract of land is confirmed by this act * * * shall, whenever his claim shall have been located and surveyed, be entitled to receive * * * a certificate stating that the claimant is entitled to receive a patent for such tract of land.

Mr. Justice Field, speaking for the court, said (p. 527):

> It was for confirmation of existing possessions and titles that the deed of cession stipulated, not the transfer of any new title. Virginia had not repudiated the concessions made by the French and English authorities to the inhabitants in the territory who had declared themselves as citizens, but had recognized and sustained them. There was, therefore, no title in her in the lands covered by the possessions of these people to transfer, and she did not undertake to transfer any. * * * In this respect she recognized the general rule of public law, that by the cession of territory from one State to another, public property and sovereignty alone passed, and that private property is not affected.

And on page 530:

> If the claim be to land with defined boundaries, or capable of identification, the legislative confirmation perfects the title to the particular tract, and a subsequent patent is only documentary evidence of that title. If the claim be to quantity and not to a specific tract capable of identification, a segregation by survey will be required, and the confirmation will then immediately attach the title to the land segregated.

See *Leavenworth* v. *Railroad Company*, 92 U. S., 745; *Slidell* v. *Grandjean*, 111 U. S., 439.

Now here, in this case, not only was the 640 acres claimed in this bill the property in 1848 of the Hudson Bay Company, and therefore not a part of the public domain upon which the proviso in the act of 1848 was intended to operate, but the 640 acres here claimed was not segregated, nor were its boundaries ever ascertained

by survey or by any natural or artificial limitations. It could not, therefore, be the subject of a legislative or executive grant.

All the rights which the Catholic mission enjoyed at the date of the passage of the act of 1848, as to the possession and use of the land occupied by it, were derived under license from the Hudson Bay Company. They claimed no *title* under that license, but simply a right of possession—a right which in no event could exceed that held by the licensor.

The Hudson Bay Company could not give to the Catholic mission a larger right than itself possessed. The company's right of possession expired by its own limitation in 1859. And so, when in 1838 it allowed the mission to be established on the land held by it, and when in 1843–46 it allowed the mission to occupy the church building which the company had erected, it only granted to the mission the privilege of occupying that land until 1859, when the company's right to it should cease.

The company was protected in all of its rights by the treaty, and when Congress in 1848 confirmed to the missionary stations title to the land then occupied by them, it simply confirmed as to the missionary stations at Vancouver such titles as they held under the Hudson Bay Company. (See *De Haro* v. *United States*, 5 Wall., 627.)

If title did not pass by the act until the land was segregated from the public domain, the Government was entitled to appropriate it for the purposes of a military reservation. (*Grisar* v. *McDowell*, 6 Wall., 380; 6 Op. Atty. Gen., 157.)

Not only laymen, but the missions, made settlements on the lands; and by the Territorial laws approved July 5, 1843, in the subdivision relating to "Land claims," it was provided in article 4 as follows:

> *Provided*, That nothing in these laws shall be construed as to affect any claim of any mission of religious character, made prior to this time, of extent not more than 6 miles square.

(*Gray's History of Oregon*, p. 294 and 349.)

The act of Congress of 1848, in sections 14, 17, and 18, recognize the existence of the provisional government of Oregon; that it had enacted laws providing for the acquisition of land within the Territory and for securing title thereto. Subsequently, in 1850, by the donation law, it made donations of land to citizens of the United States, and recognized settlements commenced during the existence of the provisional government.

The Hudson Bay Company and Puget Sound Company were recognized in articles 3 and 4 of the treaty (9 Stat., 870) as controlling the land north of the Columbia River and as having the possessory title to said land; and it is not to be assumed that Congress recognized that color of title to land in the occupation of the Hudson Bay Company was in any other than that company.

The agreement, in article 4, to respect, in addition to the possessory rights of the Hudson Bay Company, the possessory rights of all British subjects who may be already in the occupation of land or other property lawfully acquired within the said Territory, would appear to have had special reference to settlements made south of the Columbia River, or at least to settlements made upon

land which was not constructively in the control and dominion of another who was asserting rights under the treaty because thereof.

In 1840 the settlers south of the Columbia had represented to Congress the policy of Great Britain and the Hudson Bay Company to control the country on the north bank. (*Gray's History of Oregon*, pp. 194, 195.)

It was matter of common knowledge that the American settlements were made exclusively in the territory south and west of the Columbia River, and that free employees of the Hudson Bay Company also settled therein; and there is no evidence that the Hudson Bay Company made grants of land to settlers within the limits over which it exercised exclusive dominion. There is but one allusion in Gray's History of an attempt of the Hudson Bay Company to colonize the land north of the Columbia, and that was an attempt to settle immigrants from the Red River, in the Sound district. (*Ib.*, 212, 213.)

The proviso in section 1 of the act referred to was undoubtedly intended as an exception to the quoted part of section 14.

From the foregoing I contend that the conclusion inevitably results that the "title to land" occupied by missionary stations "confirmed and established" by the act of 1848 was the possessory title to land in the control and possession of missionaries, and over which they or the society to which they belonged claimed and exercised exclusive dominion and ownership. No such possession

or control of land is averred or shown by the evidence to have been in the Mission of St. James as to any of the lands in controversy.

The only testimony as to how the mission or its representatives *might* assert to have acquired the title to the church building and land at Vancouver (other than by the act of 1848) is that of Archbishop Blanchet, whose deposition given before the surveyor-general in 1862 was filed before the referee as a part of the documentary evidence for plaintiff. He testified that the mission got the land from Mr. Douglass, chief factor of the Hudson Bay Company, who, at Mr. Blanchet's request, *showed him the ground*, and that the mission never claimed ownership over any of the land except that on which the church was built. (Rec., p. 235, ques. 72–74.)

Mr. Blanchet, however, by his testimony, on page 236, shows that houses were built and occupied by the servants of the company and treated as personal property, for he testifies that he purchased for $20 or $25, from a servant of the company, a house in the employees' settlement south or southwest of the church, *but not the land*. This is probably the schoolhouse referred to in the amended complaint at folio 9, page 4, of the record, and was probably destroyed by the troops after the Bay Company evacuated Vancouver in 1859 or 1860. (See Place's affidavit on behalf of mission, Rec., p. 685.)

The evidence abundantly establishes (Rec., p. 124) that there was a large settlement of employees occupying houses south and southwest of the church, and that there were other buildings outside of the stockade of the com-

pany at the time the church was built, and that the graveyard referred to in the bill of complaint and claimed by the mission (Rec., p. 390) was inclosed *before the priests came to Vancouver* and was the burying-ground of the Hudson Bay Company; and there is not a particle of testimony in the record to show that a gift of the graveyard was ever attempted to be made to the mission.

The occupancy of the mission was analogous to that considered in *De Haro* v. *United States* (5 Wall., 599), which was held to be a mere license, not passing any title to or interest in the land.

By article 3 of the treaty concluded June 15, 1846, between Great Britain and the United States (9 Stat., 870), settling the boundary of the territory, it was provided as follows:

> In the future appropriation of the territory south of the forty-ninth parallel of north latitude, as provided in the first article of this treaty, the possessory rights of the Hudsons Bay Company, and of all British subjects who may be already in the occupation of land or other property lawfully acquired within the said territory, shall be respected.

Plaintiff does not claim under the treaty, but under the act of 1848. Inchoate rights under a treaty are not cognizable in the courts. (*Choteau* v. *Eckhart*, 2 How., 375.) Yet it would seem that if the mission had any rights which the United States were bound to respect, they arose by virtue of clause 3 of the treaty.

The mission was within the jurisdiction of the bishop of Quebec and was established and located upon land in the possession of the Bay Company, *solely by the permission*

of that company. No written conveyance of land was made to it or promised it, though when "land claims" were transferred within the Territory they were evidenced by writing. See copy of deed of Dr. McLaughlin, factor of the Bay Company, for a portion of a "land claim" of which he asserted ownership. (Gray's Hist., pp. 293, 298.)

It was not with reference to individuals or societies holding *such* a possession that Congress enacted the proviso in question, for there is nothing in it to indicate that the possessory rights of British subjects were being legislated about.

The remarks of Mr. Justice Field in *Rector* v. *Gibbon* (111 U. S., 283, 284) have a bearing upon the character of the claim asserted on behalf of the mission, when viewed in the light of its *mere occupancy* under the Hudson Bay Company.

That Congress was not seeking by the proviso to protect rights of British subjects is also evident from the fact that it did not "confirm and establish" the title to *all* the lands occupied by missionary stations, but only to 640 acres. The reason for the limitation to not exceeding 640 acres, it is submitted, was owing to the fact that under the provisional government the missions were allowed to acquire claims to 6 *miles square* of land.

Further, this Government had no official knowledge as to the existence of missions within the territory over which the Hudson Bay Company claimed and exercised sole control. Congress, however, did have knowledge of the missions within the country settled by Americans.

The original missionaries from the United States had their passports from the Secretary of War, giving them permission to travel through and settle as teachers in the Indian country, and all military agents and officers of the Government were instructed to facilitate their efforts, and, if at any time it was necessary, afford them protection. (Gray's Hist., pp. 219, 223, 364.)

The commencement of the permanent settlement of the country was by these missionaries, who were solicited by the Indians to come among them, and who settled in the midst of the Indians at the *permanent* homes of the Indians. (*Ib.* 40, and see pp. 31, 106, 153.)

The Catholic mission at Vancouver, on the other hand, was primarily a mission for the religious benefit of the employees of the Hudson Bay Company. If *wild* Indians were instructed at all by the priests at Vancouver—and there is much testimony in the record to the effect that they were not—it was but religious instruction given to Indians who came to Vancouver to trade, and whose stay was but temporary. No attempt is shown to have been made among the wild Indians by the Catholic missionaries who came to Vancouver to introduce among them habits of civilization, such as the cultivation of the land, as did the American missionaries who established missionary stations "among the Indian tribes." Prior to August 14, 1848, the priests at Vancouver did not even cultivate land for their own use.

It is not open to dispute that the Catholic priests did not have secular schools at Vancouver prior to August 14, 1848, and that the Hudson Bay Company maintained such schools as existed on the date named.

As well might the Protestant religious societies whose missionaries preached in the church inside the fort, or in the schoolhouse outside, prior to August 14, 1848 (Rec., p. 345), and who preached to the wild Indians outside the fort, assert, also, a claim to this very land.

In 1843 this Government sent a special agent to the Territory, who made reports during 1843 and 1844 of his proceedings, but whose explorations and reports were confined to the country south and west of the Columbia River. (Gray's Hist., letters at pp. 214, 217, 218, 240, 243, and 257.) See also Missionary Hine's statement in Gray's work, at p. 216, of then settlements *all south and west of the Columbia*. The Methodist mission station at Fort Nesqually had been abandoned. (*Ib.*, p. 271; Rec., p. 345, ans. ques. 140.)

The attention of the Government had also been called to the mission land claims. (*Ib.*, 246, White's letter, Nov. 15, 1843, to Secretary of War.)

The donation act of 1850 contains cogent evidence that the law-making power in this country intended that the title to the public land within the Territory of Oregon should only be acquired and held by citizens of the United States; and it has never made any law granting lands to claimants under the treaty, though a suggestion of the possibility that such grant might be made is found at the close of section 4 of the act of 1848. Under the provisional government, it will be remembered, land claims could be acquired by British subjects as well as by American settlers (see Organic Act, sec. 2, Art. IV, Gray's Hist., p. 354); and it is a reasonable inference that the

clause in section 4 relates to those rights. As showing the number and nationality of the settlers south of the Columbia, reference may be had to Gray's History at pages 155, 181, 187, 192, 212, 361, 382, and 453.

For further light on the point just considered see opinion of Judge Langford at pages 33 and 34 of the record, and the opinion of Judge Hanford at pages 47 and 48. See, also, that portion of Commissioner Edmunds's decision rejecting the mission claim, on page 481 of the record.

As said by Judge Langford:

> The possessory right to this very land was purchased by the United States from the Hudson Bay Company to extinguish British interest.

(See treaty July 1, 1863, 13 Stat., 651; act July 11, 1870, 16 Stat., 386; Gray's History of Oregon, pp. 85, 86; Rec., p. 473.)

THE MISSION OF ST. JAMES CAN NOT IN ANY EVENT HAVE THE BENEFIT OF THE ACT OF AUGUST 14, 1848, ESTABLISHED TO IT IN THIS PROCEEDING, FOR WANT OF A GRANTEE CAPABLE OF TAKING TITLE, AND FOR WANT OF ANY RIGHT OF ACTION IN THE PRESENT COMPLAINANT.

Assuming that the act of 1848 was intended to embrace the mission in question, as the grant was to the "religious society," to which the station belonged, and the plaintiff claims that that religious society was the Roman Catholic Church, the court will take judicial notice that that Church is a mere aggregation of individuals, and not a corporation, and consequently a grant to it was void.

A grant to a religious society *at a certain place* may be sustained. (*Town of Pawlet* v. *Clark*, 9 Cranch, 292; *Watson* v. *Jones*, 13 Wall., 679; *People* v. *Fulton*, 11 N. Y., 94; *Methodist Society* v. *Bennett*, 39 Conn., 293.)

But a grant to a religious society generally is void for indefiniteness, it not being a charity.

No facts are stated in the bill justifying the conclusion averred in it that the title to this land vested by law in plaintiff for the benefit of the church in 1861, when the bishop was incorporated by the legislative assembly of the Territory of Washington at a time when proceedings were pending before the Land Department for an official survey.

There is no averment in the bill, and no proof in the record, that the property owned by the "religious society" of the Roman Catholic Church in the State of Oregon vested in the bishop. It is not the religious society, it will be observed, that has been incorporated, but only the Bishop of Nesqually.

A COURT OF EQUITY HAS NO JURISDICTION OVER THE SUBJECT-MATTER OF THIS SUIT.

The primary relief sought by plaintiff was the possession of the entire 430 acres of land claimed by it, and occupied as a military reservation. But such relief can not be had in equity, as no matter specially the subject of equitable cognizance is averred in the bill of complaint.

The remedy to recover the possession of land is at law, in ejectment. (*Frost* v. *Spitley*, 121 U. S., 552, 556; *Lewis* v. *Cocks*, 23 Wall., 466.)

In the courts of the United States a recovery in ejectment can not be had if the legal title has not been divested from the United States by patent or otherwise. (*Langdon* v. *Sherwood*, 124 U. S., 83.)

The fact—if it be a fact—that plaintiff has not the legal title, and that it can not compel the issuance of a patent by the United States (*United States* v. *Jones*, 131 U. S., 1), would not give jurisdiction to a court of equity to award possession of the land. (*Fussell* v. *Gregg*, 113 U. S., 550.)

Nor can complainant maintain his bill as against the United States, upon the assumption that plaintiff has the equitable title, for the purpose of declaring it to be the equitable owner of and entitled to a patent, as prayed in its second ground of prayer for relief, because the original defendants do not assert an adverse claim of title in themselves; and Congress has not conferred upon any court of equity power to inquire into any equitable rights asserted, either directly or indirectly, against the United States, but has reserved to itself the consideration of such questions and the power to dispose of them. (*Bonner* v. *United States*, 9 Wall., 156, 159.)

And the United States was a *necessary* party defendant if it possessed the legal title, as its right to retain such title as against plaintiff was attacked. (*Litchfield* v. *Register and Receiver*, 9 Wall., 575, 578.)

If, therefore, the *legal* title to the land in controversy is in the United States, as the plaintiff can not maintain ejectment and can not assert in a court equities against the United States so as to clothe itself with the legal title,

it is without remedy to recover land not in its actual possession, except by an appeal to Congress.

A large portion of the amended complaint is devoted to a recital of the proceedings connected with the unsuccessful effort of the mission to obtain an official survey of and a patent to the 640 acres of land claimed by it. Of course, if the legal title vested by the proviso in question, the patent would not be the foundation of title, but simply evidence of it, and that the land was within the terms of the act. (*French* v. *Fyan*, 93 U. S., 169, 170; *Deseret Salt Company* v. *Tarpey*, 142 U. S., 251; *Langdean* v. *Hanes*, 21 Wall., 521.)

The right to a patent was asserted under the act of December 22, 1854 (10 Stat., 599; Rev. Stat., 2447). Assuming that act to apply to the confirmatory act of August 14, 1848, still relief can not be had against the original defendants, who assert no title or interest in themselves and have no power over the issuance of patents; and the United States, as elsewhere shown, can not be compelled through the courts to issue a patent.

If the right to a patent existed, but by reason of the erroneous construction of a statute adopted by the Secretary of the Interior a patent for the proper quantity of land was refused, plaintiff can have remedy only when the legal title has passed from the United States. He may then assert his equities against the patentee. (*Rector* v. *Gibbon*, 111 U. S., 276; *Johnston* v. *Towsley*, 13 Wall., 72 (syl. 8), 87.)

Under the decisions just cited, if complainant was merely the *equitable* owner and entitled to a patent, he

had an opportunity to test the question of his right to the legal title in the courts by a proceeding in equity against the patentees who received patents in 1874 and 1877 for the 210 acres, the use of which had been abandoned by the Government. (Rec., pp. 576, 321.)

It was held in the Territorial supreme court that the only ground upon which the court could take jurisdiction of the claim of plaintiff was under a section of the statutes of the Territory providing "that one in possession of land may sue in equity anyone claiming title thereto and have the title declared by the court." (Rec., p. 32.) And on the claim to the 5-acre tract alleged to be in the actual occupancy of plaintiff the court proceeded to examine the title and declare it.

If Congress had consented that the United States might be sued, still the equities of plaintiff, in order to constitute a title in equity, must have been a *fixed, vested* right before the creation of the military reservation, as would make such appropriation obnoxious to the constitutional objection of taking private property without just compensation. And if the equities under which Henry M. Record (in the Hot Springs cases) claimed title in equity were insufficient, and this court so held (92 U. S., 707–716), surely plaintiff has stated nothing to warrant the claim that the mission or plaintiff acquired an equitable title to this land. If the act of 1848 did not grant this land, then, as no steps were taken under authority of any law of the United States to acquire title to it, such as a purchase or preemption of the land, no right to a patent vested in anyone for this land. It is only by force of express authority of law that rights in public land can be acquired.

The section of the Territorial statutes referred to is probably section 551, contained in the Washington Code of 1881 at page 226.

The pertinent portion of the section reads as follows:

> Any person in possession, by himself or his tenant, of real property, and any private or municipal corporation in possession, by itself or its tenant, of any real property, or when such real property is not in the actual possession of anyone, any person or private or municipal corporation claiming title to any real property under a patent from the United States, or during (deriving) his or its claim of title to such real property under a patent from the United States for such real estate, may maintain a civil action against any person or persons, corporations, or associations claiming an interest in said real property or any part thereof, or any right thereto adverse to him, them, or it, for the purpose of determining such claim, estate, or interest; * * *

This section should, properly, receive the same construction as was given to the Nebraska statute considered in *Frost* v. *Spitley*, *supra*, namely, that it is the *legal* title to real property that is authorized to be quieted against claims of adverse estates or interests.

Plaintiff is not within the decisions cited by Mr. Justice Gray in the second paragraph of the opinion of the court on page 556, which has reference to persons who have purchased land from the United States or have complied with all the requirements of the law regarding settlement and preemption of public lands, and hence have a fixed vested right to a patent amounting to a property right.

The original defendants were not within the terms of the Territorial statute. They were mere servants and

employees of the Government, asserting no claim of right in or title to the land in dispute. A decree against them would only be an attempt to quiet the title as against a claim of title on the part of the United States.

If plaintiff can not establish a legal title by virtue of the act of 1848, it is not apparent, as before stated, whence the mission derived equities which can be enforced in a judicial tribunal.

It made improvements at its peril, and so far as rights of the United States are concerned was a mere trespasser. The Government lost no rights by delay in refraining from disturbing the actual possession of a portion of this land, even though it had not extended the reservation over the land in the actual occupancy of plaintiff.

Plaintiff can not acquire title against the United States by adverse possession. (*Lindsey* v. *Miller's Lessee*, 6 Pet., 666; *Burgess* v. *Gray*, 16 How., 48, 64.)

Mere possession without title will not estop the sovereign power. (*De Haro* v. *United States*, 5 Wall., 599, 628.)

The averments in the amended complaint do not entitle to an injunction to restrain trespassing.

> To warrant the interference of equity in restraint of trespass two conditions must coexist: First, plaintiff's title must be established; and, second, the injury complained of must be irreparable in its nature. And to come within the rule the injury must be of such a nature as not to be susceptible of adequate pecuniary compensation of damages. (1 High on Inj. (3d ed.), sec. 701.)

The threatened danger feared is to the inheritance. For a forcible removal from the possession a remedy might be

had by a proceeding in forcible entry and detainer, which would not involve any question of title. But the right to recover damages for an injury to the reversion is in the holder of the *legal* title.

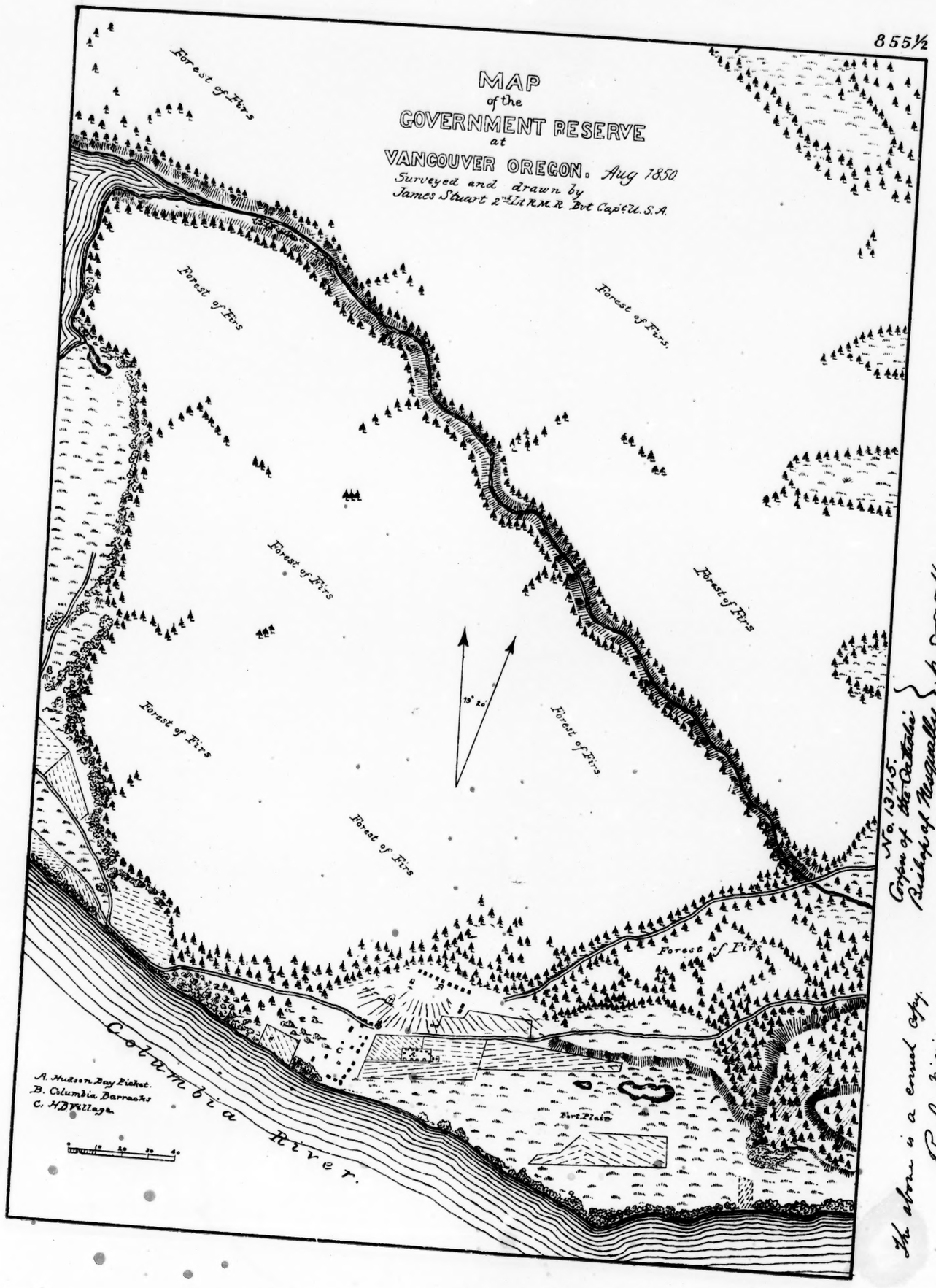
It is submitted on the argument heretofore made that no title of any description to this land passed out of the Government on account of the matters stated in the complaint, and that, consequently, the first essential to entitle to an injunction is wanting.

Assuming, however, title shown in plaintiff, the allegations of the amended complaint do not make a case of *irreparable damage*. It is not shown that the remedy at law in an action for damages is not plain, adequate, and complete. (See *Wehrman* v. *Conklin*, 155 U. S., 314.) There is no statement of the number and location of the trees still upon the premises, the character of buildings outside the half-acre tract, and the use made of such buildings and trees as that a destruction of them would be an irreparable injury, not capable of pecuniary estimate. Nothing is stated justifying the fears of plaintiff that its possession of the half-acre tract will be interfered with, while the answer explicitly denies any intention to so interfere. Nor is it apparent how a multiplicity of suits would result, if a resort was had to a court of law for redress.

It is not alleged that defendants are insolvent, or unable to respond for any damage which might be caused to the property.

HOLMES CONRAD,
Solicitor-General.

855½



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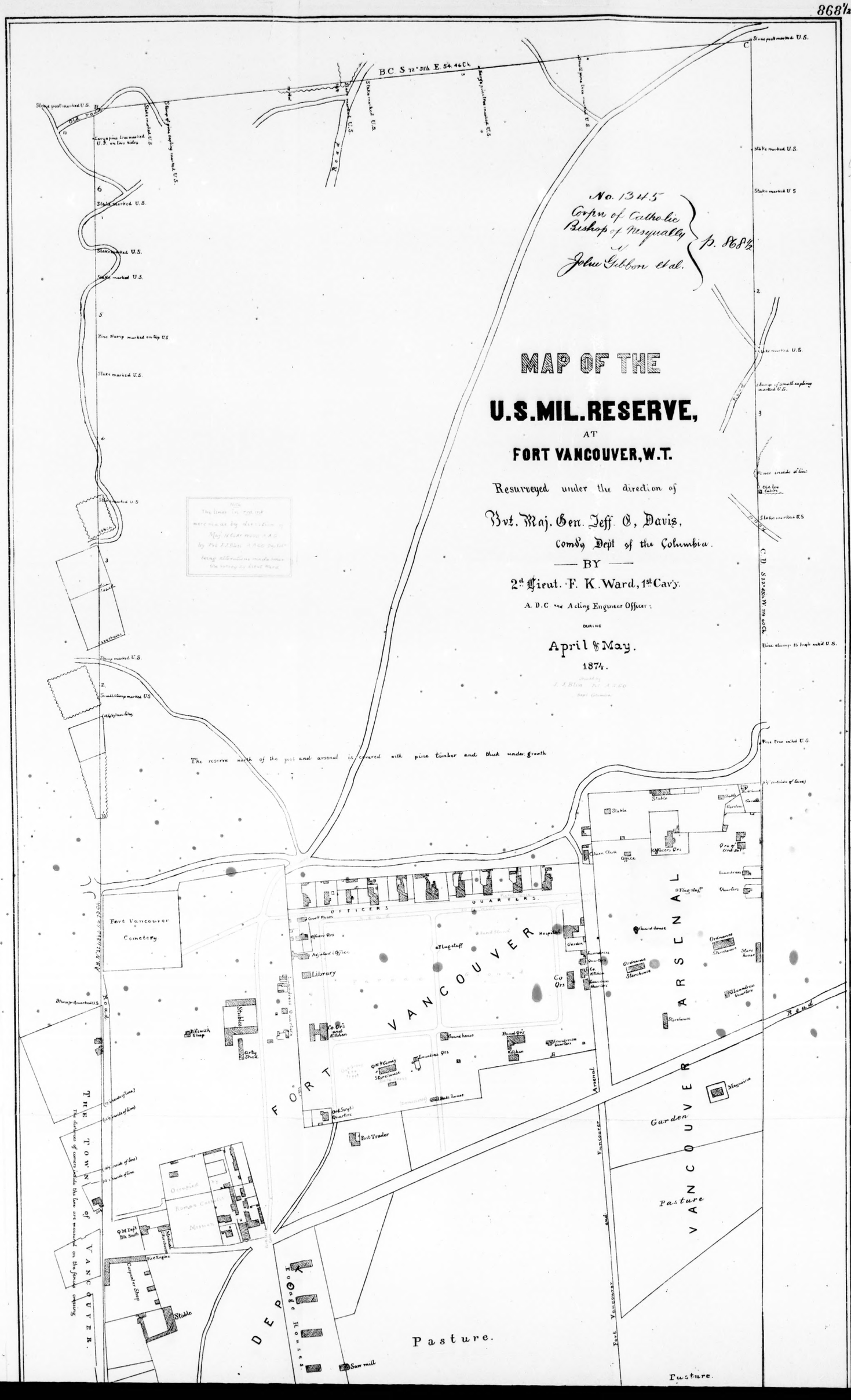
John Gibbon et al.
p. 855½

The above is a correct copy.
R. S. Williamson
Lieut U. S. Topl. Engr.


No. 1345
Corpn of Catholic Bishop of Nesqually
v
John Gibbon et al.
p. 868½
MAP OF THE
U.S. MIL. RESERVE,
AT
FORT VANCOUVER, W.T.
Resurveyed under the direction of
Bvt. Maj. Gen. Jeff. C. Davis,
Comdg Dept of the Columbia.
BY
2d Lieut. F. K. Ward, 1st Cav'y.
A. D. C. and Acting Engineer Officer;
DURING
April & May.
1874.
B.C. S 72° 51½ E. 54.46 Ch.
C.D. S 22° 45½ W. 119.60 Ch.
The reserve north of the post and arsenal is covered with pine timber and thick under growth
Fort Vancouver Cemetery
OFFICERS QUARTERS
FORT VANCOUVER
VANCOUVER ARSENAL
DEPOT
Pasture.
Garden
Pasture
Road
Stable
Library
Post Trader
Stables
Carpenter Shop
Fire Engine
Saw mill
Officers Qrs
Hospital
Ordnance Storehouse
Magazine
THE TOWN of VANCOUVER.
The distances of corners inside the line are measured on the fences crossing

No. 1345
Corpn of Catholic Bishop of Nesqually
vs
John Gibbon et al.
} p. 868½

MAP OF THE
U.S. MIL. RESERVE,
AT
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April & May.
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The reserve north of the post and arsenal is covered with pine timber and thick undergrowth

FORT VANCOUVER

ARSENAL

QUARTERS

OFFICERS

Fort Vancouver Cemetery

THE TOWN of VANCOUVER

VANCOUVER DEPOT

Pasture

Garden

Columbia River

Official
(Sd) H. Clay Wood
Assistant Adjutant General

883½

G. L. Co

Map
of the
Government Reserve
at
Fort Vancouver W. T.
From a Survey made by
Lt Col B. L. E. Bonneville 4th Inf
February 1854.

and
drawn by
Bvt Capt J. R. McConnell
Adjutant
4th Reg U.S. Infy

Copy
(Sd) E. D. Townsend
asst. adjt Genl
Hd. Qrs. Dept of the Pacific
San Francisco, March 15/54

Description of the Boundary
A - Flag Staff
B. C. D. E. Fly G. Cedar posts marked U. S.
From "A" run N 73° W 26 ch and 90 links to "B". From "B" run S 21° 30' W to e 50 ch and 58 links. From e run S 59° 9' E to h 29 ch 9 links - From "h" run S 01° 25' E to m 29 ch 9 links. From "m" run N 21° 30 E. to A 119 ch 1 link - From A run N 73° W to G 53 ch 40 links - From "G" run S 21° 30 W to "B" 65 ch 51 links -

6 m the South West and South East Corners of the reserve at low water mark.

Area of the Reserve 640 acres

Portions of the Flag Staff
Lat 45° 36' 53" N.
Long 122° 39' 36.6" W.

□ U.S. Buildings
■ Hudson Bay Compy Buildings

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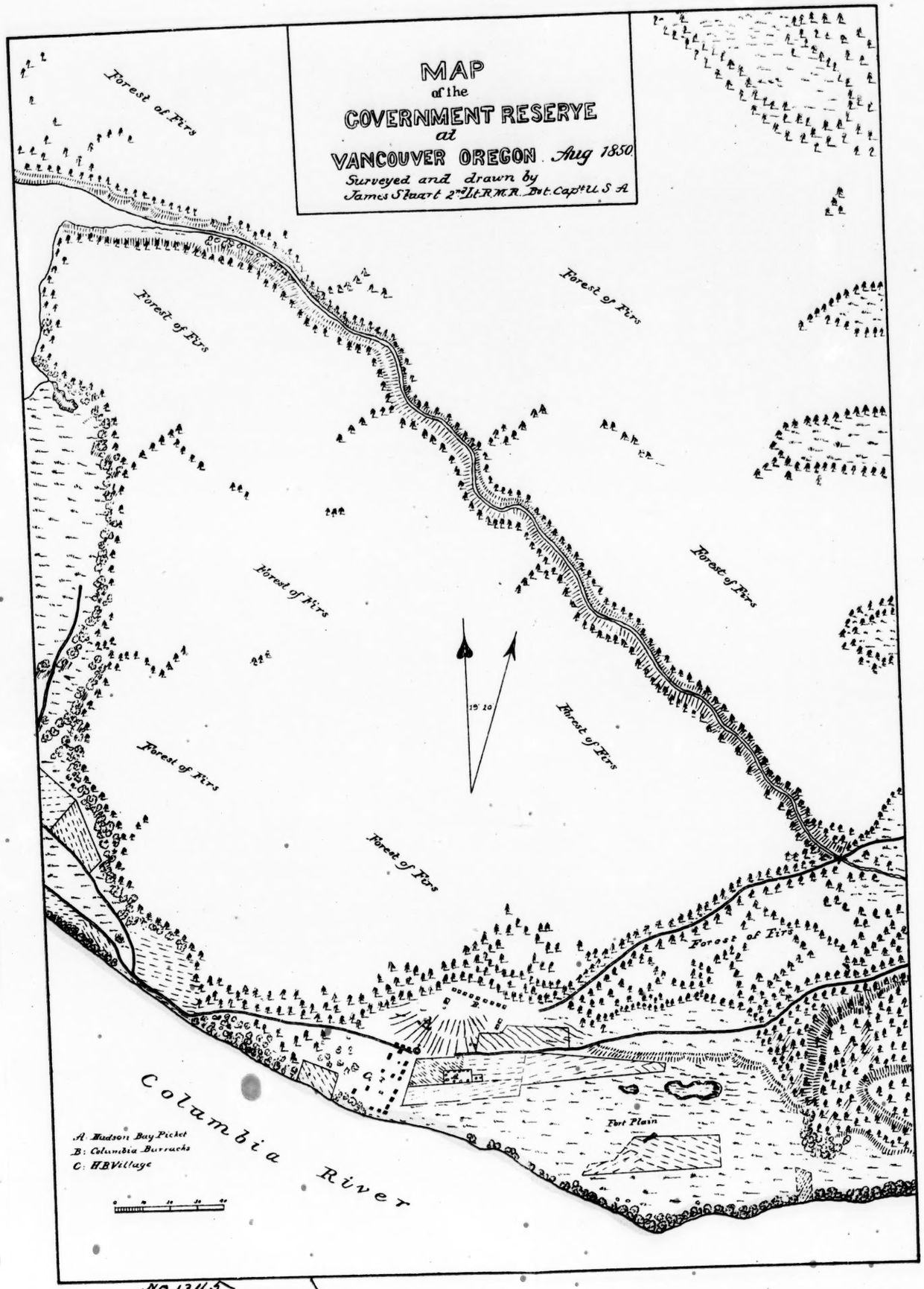
Bishop of Nesqually
vs.
John Gibbon et al
} p. 883½.

Scale
10 0 10 20 chains
440 yards

879a



No 1345
Corpn. of Catholic
Bishop of Nesqually
v.
John Gibbon et al.
} p 879a

The above is a correct Copy
(Signed) R. S. Williamson
Lieut U.S. Topt. Engrs

906a

Note: This reservation is situated on the right bank of the Columbia River, 8 miles north of Portland Or. and was ordered by the Secy of War Octr 29th 1853. Contents about 640 acres

MAP
of the
MILITARY RESERVATION
AT FORT VANCOUVER, W. T.

Surveyed under the direction of
Capt. GEO. THOM Topographical Engrs.
by
Lieuts J. B. Wheeler & J. Dixon Corps Top.l Engrs.
By Order of
BRIG GEN. W. S. HARNEY.
1859.

Scale of 16 Inches to 1 Mile.

A B	N 21°22' E	7650'
B. C.	S. 72°38 E.	3525'
C. D.	S 21°22 W.	7852'
D. A.	N 68°45 W.	3494'
E. F.	N 21°22 E.	7748'
F. C.	S 72°38 E	987'

Military Reservation 638 Acres
Ordnance Reserve 166 A
Lat. 45° 36 03" N
Lon. 122° 39' 34" W.

Copy –
(Sd) Geo Thom
Capt. Topl Engr.

B F C

Densely covered with heavy Fir Timber

ORDNANCE RESERVE

Cemetery

Flag Staff

Catholic mission

Hudson's Bay Company

Garden

Quarter Master U. S. Army

AT FORT VANCOUVER, W.T.

Surveyed under the direction of

Capt. GEO. THOM Topographical Engrs.

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Ordnance Reserve 166 A

Lat. 45° 36 63" N

Lon. 122° 39' 34" W.

Copy –

(Sd) Geo Thom

Capt. Topl Engr

B

F

C

Densely covered with heavy Fir Timber

RESERVE

ORDNANCE

Flag Staff

Cemetery

Catholic mission

Garden

Quarter master U. S. Army

Hudson's Bay Company

COLUMBIA RIVER

No. 1345

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vs.

John Gibbons et al.

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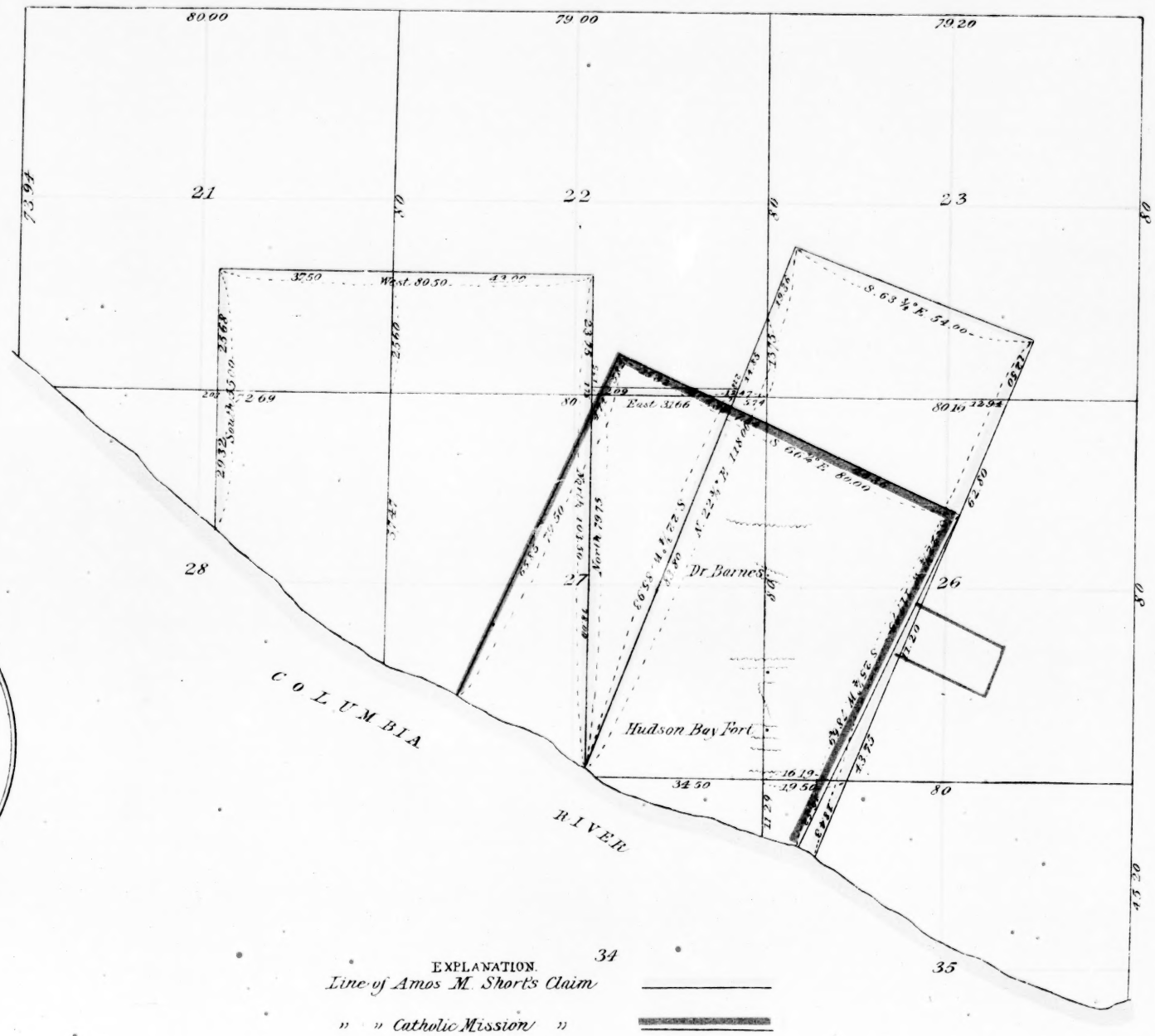
Corpn Catholic
Bishop of Nesqually
v.
John Gibbon et al.
} p. 917 a

A
PLAT
OF THE
TOWN OF VANCOUVER
from
THE FIELD NOTES
1860



EXPLANATION.

Line of Amos M. Short's Claim
" " Catholic Mission "
" " Vancouver Town Site
" " U.S. Military Reserve
" " Ordnance Reserve

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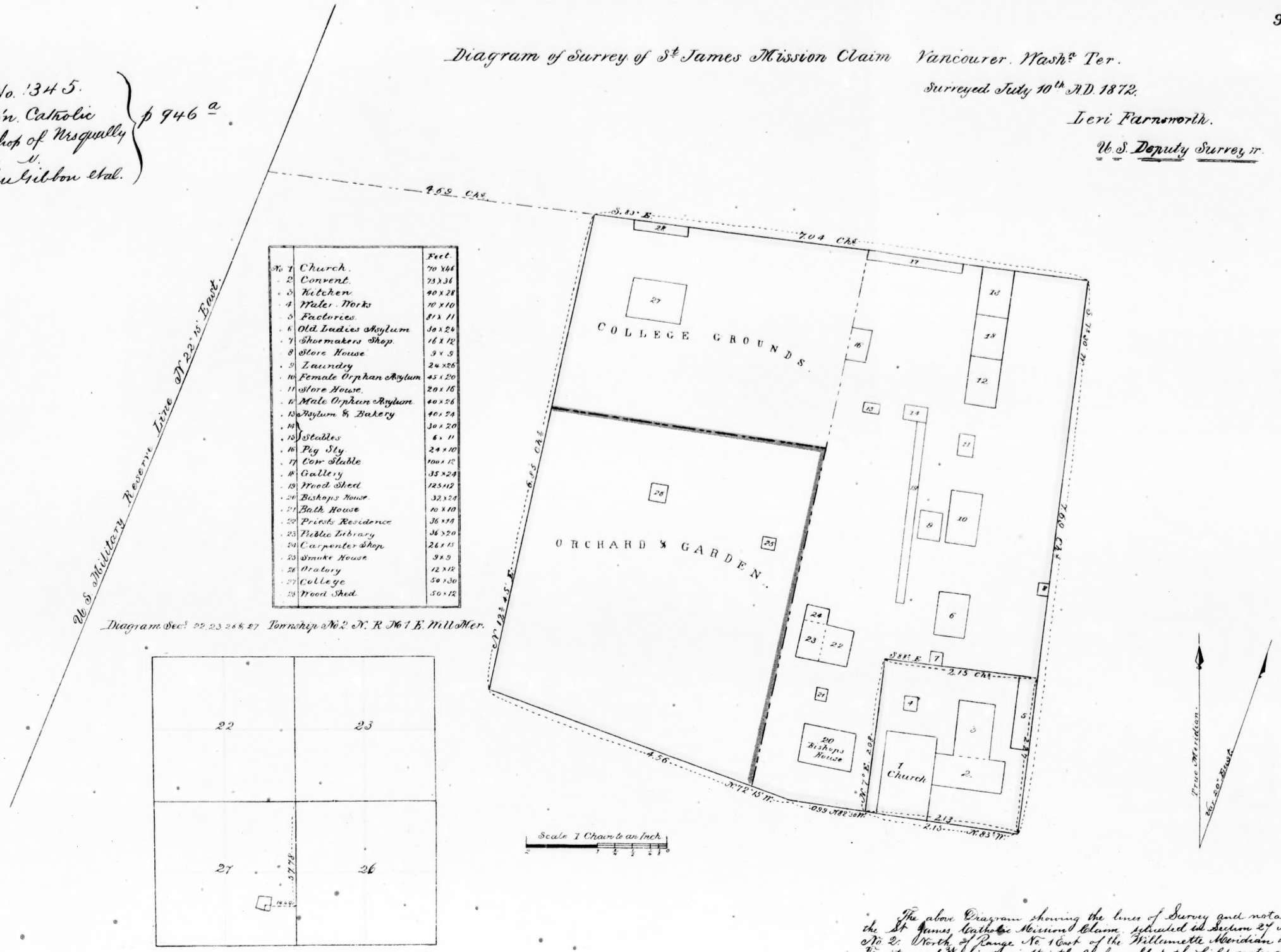
Diagram of Survey of St James Mission Claim Vancourer. Washn Ter.

Surveyed July 10th A.D. 1872.

Levi Farnsworth.

U. S. Deputy Surveyor.



No.		Feet.
1	Church.	70 x 46
2	Convent.	73 x 36
3	Kitchen.	40 x 28
4	Water Works	10 x 10
5	Factories.	81 x 11
6	Old Ladies Asylum	30 x 24
7	Shoemakers Shop.	16 x 12
8	Store House	9 x 9
9	Laundry	24 x 26
10	Female Orphan Asylum	45 x 20
11	Store House.	20 x 16
12	Male Orphan Asylum	40 x 26
13	Asylum & Bakery	40 x 24
14		30 x 20
15	Stables	6 x 11
16	Pig Sty	24 x 10
17	Cow Stable	100 x 12
18	Gallery	35 x 24
19	Wood Shed	125 x 12
20	Bishops House	32 x 24
21	Bath House	10 x 10
22	Priests Residence	36 x 14
23	Public Library	36 x 20
24	Carpenter Shop	26 x 15
25	Smoke House	9 x 9
26	Oratory	12 x 12
27	College	50 x 30
28	Wood Shed	50 x 12

Diagram Secs. 22, 23, 26 & 27 Township No 2 N. R. No 1 E. Will Mer.

The above Diagram showing the lines of Survey and notations of the St James Catholic Mission Claim situated in Section 27 Township No 2 North of Range No 1 East of the Willamette Meridian in the Territory of Washington is strictly Conformable to the field notes of the survey thereof on file in this office which have been Examined and approved.

Surveyor Generals Office at Olympia W. T. July 29th 1872.

L. P. Beach
Sur. Genl. of W. T.

No. 1345
Corp^n Catholic Bishop of Nesqually &c.
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p. 950a

Diagram of Survey of St James Mission Claim Vancouver Washington Territory
Surveyed July 10th A.D. 1872
Devi Farnsworth
U.S. Deputy Surveyor.

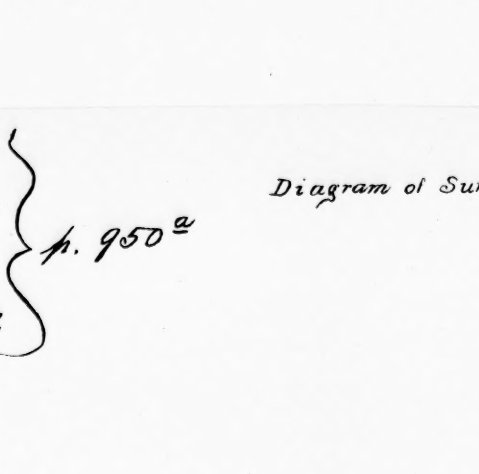
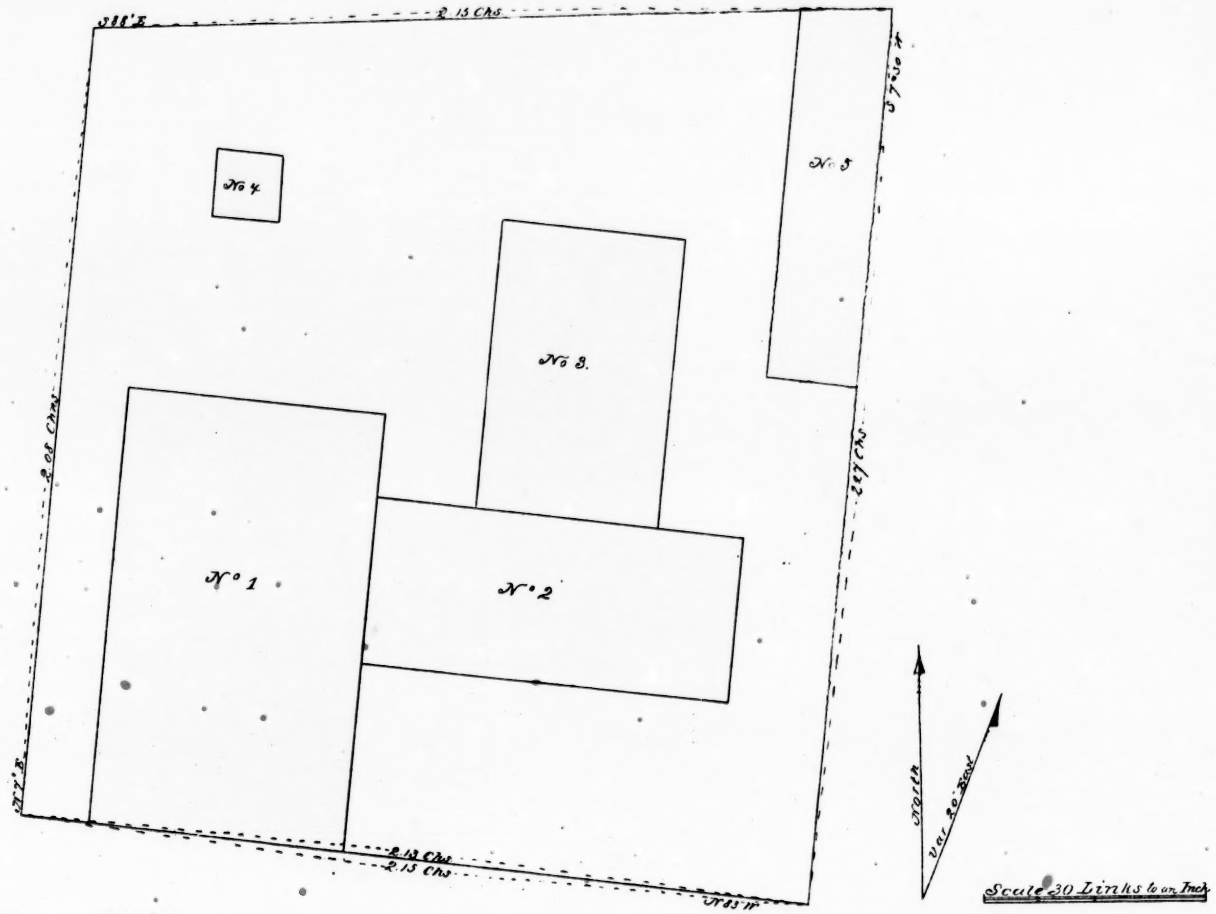


Diagram of Sect. 22 23 26 & 27 Township No 2 N.R. No 9 East of the Willamette Meridian



No 1 Church	70.46	feet
2 Convent	73.36	"
3 Kitchen	40.28	"
4 Water Works	10.10	"
5 Factories	81.11	"

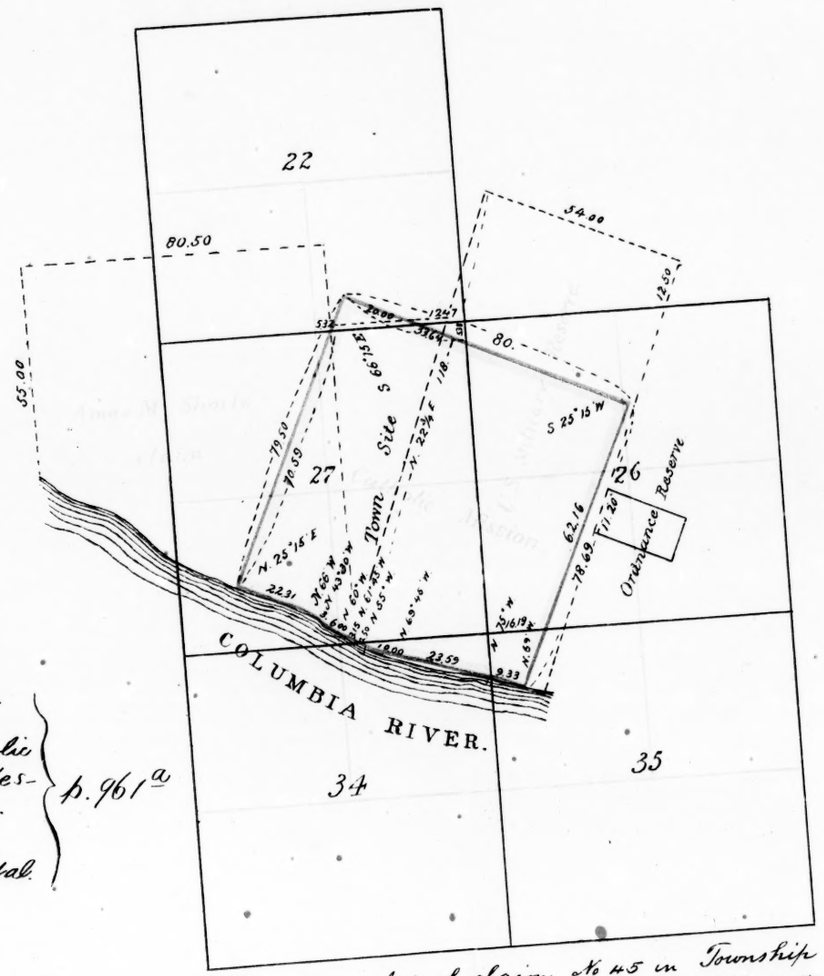
The above Diagram showing the lines of Survey and Notations of the St James Catholic Mission Claim situated in Section 27 Township No 2 North Range No 1 East of the Willamette Meridian in the Territory of Washington is strictly conformable to the field notes of the Survey thereof on file in this office which have been examined and approved.
Surveyor Generals Office
at Olympia W.T. 1872

L. P. Beach
Surv. General W.T.

961a

9

St James Catholic Mission Claim.
Donation Claim No. 45 - 641 Acres.
Township No. 2. N. R 1. East.



No. 1345
Corp'n Catholic
Bishop of Nes-
qually &c.
vs.
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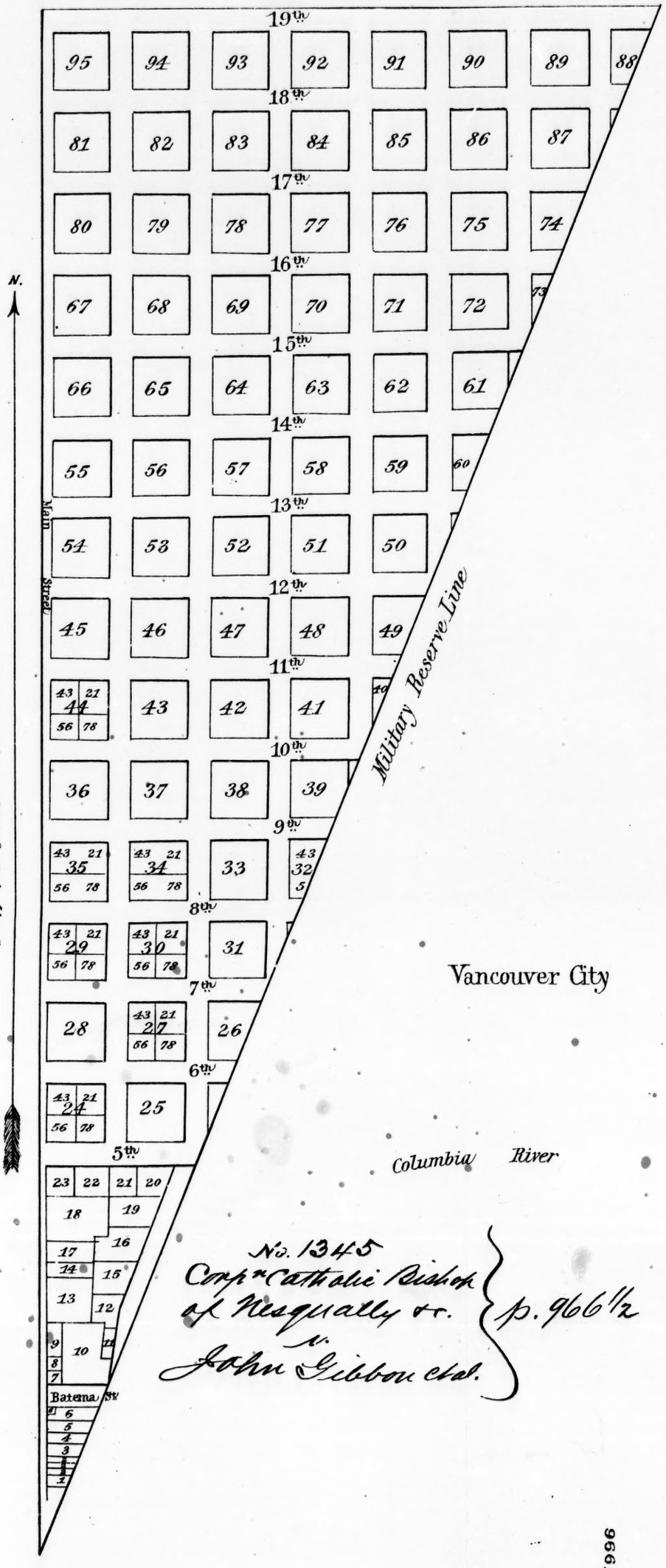
The above Map of claim No 45 in Township No 2 North of range one East of the Willamette Meridian Washington Territory is strictly conformable to the field notes of the survey thereof which have been examined and approved

Surveyor Generals Office
Olympia W.T. Dec.r 1861.

Anson G. Henry
Surveyor General.



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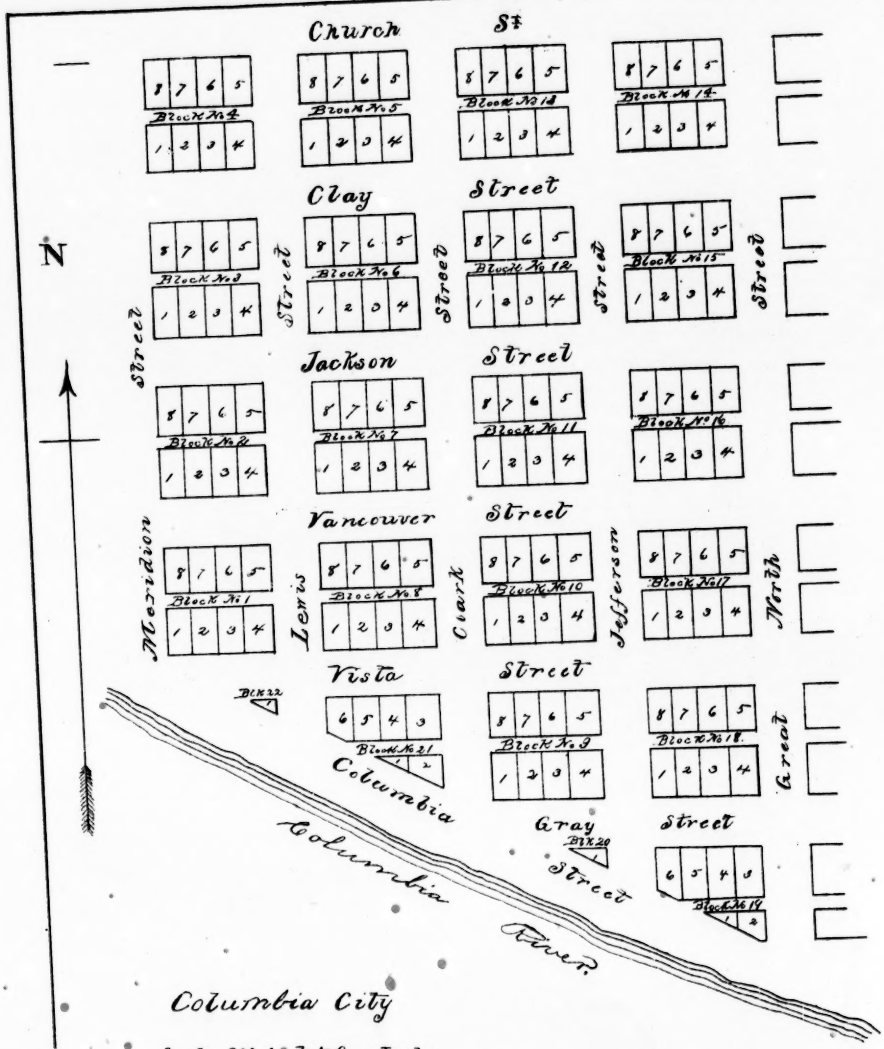
} p. 966 1/2

966½



Columbia City

Scale 200 feet to One Inch

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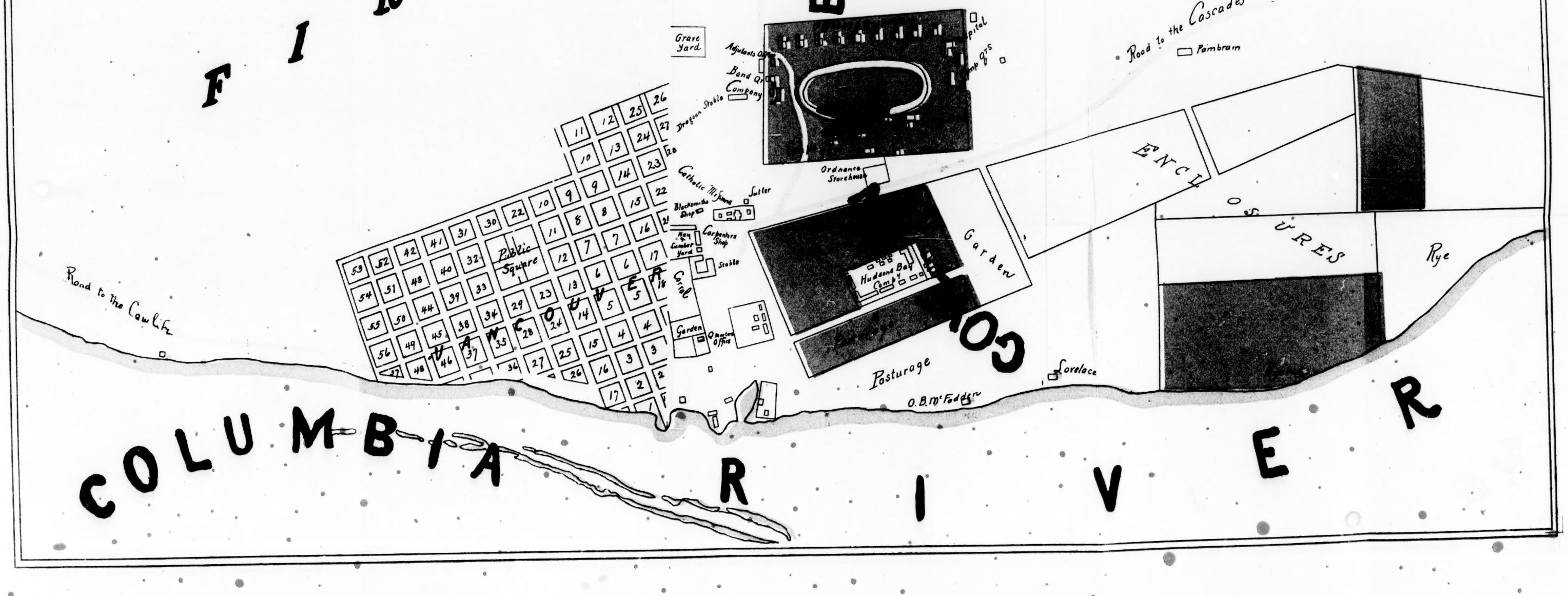
Gibbon et al.

p. 974a

No. 1345.
Corpn of Catholic
Bishop of Nesqually
v.
John Gibbon et al.
} p. 1170a

FORT VANCOUVER MILITARY RESERVE



Diagram

St James Catholic Mission Claim Vancouver W.T.

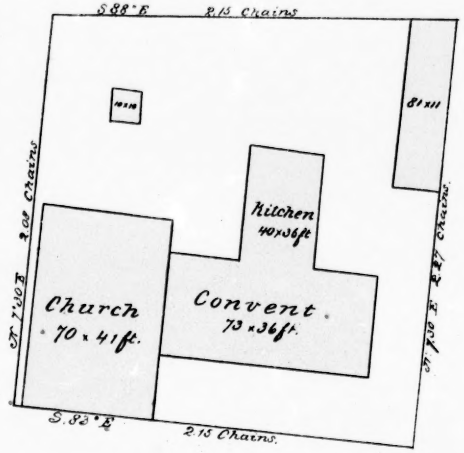
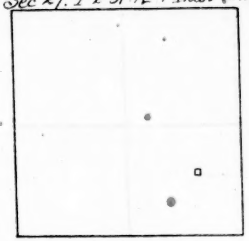


Diagram
Sec 27. T 2 N R 1 East W.M.



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} p. 1282a

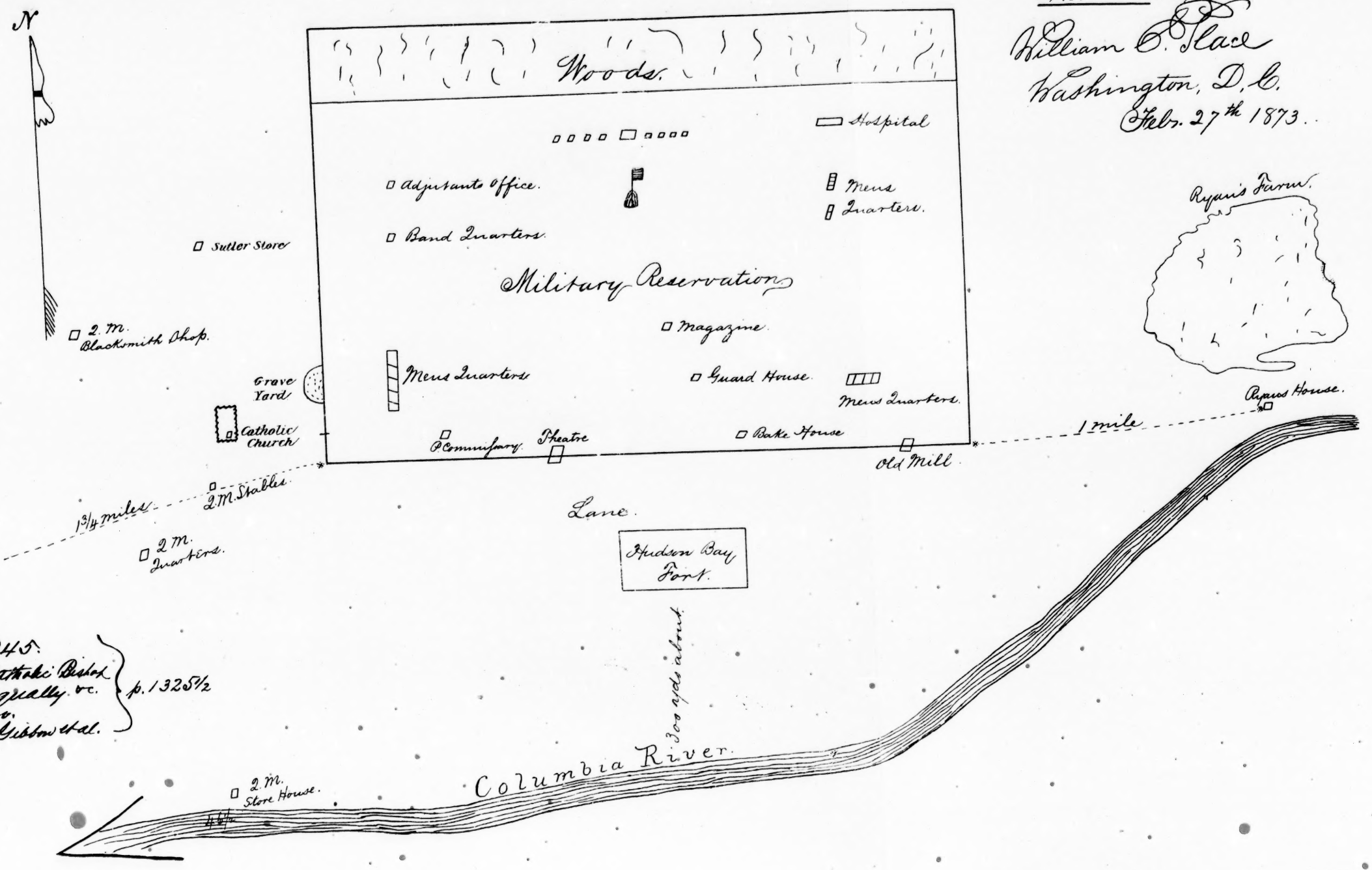
A true Copy Attest:

W McMicken

Surveyor General Wash Ter.

Exhibit "W"

William C. Place
Washington, D.C.
Febr. 27th 1873.



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v.
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p. 1325½